

SALES TAX EXEMPTION REVISIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel K. Briscoe

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates a sales and use tax exemption for an electric energy storage asset.

Highlighted Provisions:

This bill:

- ▶ defines electric energy storage asset;
- ▶ creates a sales and use tax exemption for an electric energy storage asset used for residential, commercial, or industrial purposes; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-102, as last amended by Laws of Utah 2018, Chapters 25, 281, 415, 424, and 472

59-12-104, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-12-102** is amended to read:

59-12-102. Definitions.



28 As used in this chapter:

29 (1) "800 service" means a telecommunications service that:

30 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

31 (b) is typically marketed:

32 (i) under the name 800 toll-free calling;

33 (ii) under the name 855 toll-free calling;

34 (iii) under the name 866 toll-free calling;

35 (iv) under the name 877 toll-free calling;

36 (v) under the name 888 toll-free calling; or

37 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

38 Federal Communications Commission.

39 (2) (a) "900 service" means an inbound toll telecommunications service that:

40 (i) a subscriber purchases;

41 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
42 the subscriber's:

43 (A) prerecorded announcement; or

44 (B) live service; and

45 (iii) is typically marketed:

46 (A) under the name 900 service; or

47 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

48 Communications Commission.

49 (b) "900 service" does not include a charge for:

50 (i) a collection service a seller of a telecommunications service provides to a
51 subscriber; or

52 (ii) the following a subscriber sells to the subscriber's customer:

53 (A) a product; or

54 (B) a service.

55 (3) (a) "Admission or user fees" includes season passes.

56 (b) "Admission or user fees" does not include annual membership dues to private
57 organizations.

58 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on

59 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
60 Agreement after November 12, 2002.

61 (5) "Agreement combined tax rate" means the sum of the tax rates:

62 (a) listed under Subsection (6); and

63 (b) that are imposed within a local taxing jurisdiction.

64 (6) "Agreement sales and use tax" means a tax imposed under:

65 (a) Subsection 59-12-103(2)(a)(i)(A);

66 (b) Subsection 59-12-103(2)(b)(i);

67 (c) Subsection 59-12-103(2)(c)(i);

68 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

69 (e) Section 59-12-204;

70 (f) Section 59-12-401;

71 (g) Section 59-12-402;

72 (h) Section 59-12-402.1;

73 (i) Section 59-12-703;

74 (j) Section 59-12-802;

75 (k) Section 59-12-804;

76 (l) Section 59-12-1102;

77 (m) Section 59-12-1302;

78 (n) Section 59-12-1402;

79 (o) Section 59-12-1802;

80 (p) Section 59-12-2003;

81 (q) Section 59-12-2103;

82 (r) Section 59-12-2213;

83 (s) Section 59-12-2214;

84 (t) Section 59-12-2215;

85 (u) Section 59-12-2216;

86 (v) Section 59-12-2217;

87 (w) Section 59-12-2218;

88 (x) Section 59-12-2219; or

89 (y) Section 59-12-2220.

- 90 (7) "Aircraft" means the same as that term is defined in Section 72-10-102.
- 91 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 92 (a) except for:
- 93 (i) an airline as defined in Section 59-2-102; or
- 94 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 95 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 96 state, of an airline; and
- 97 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 98 whether the business entity performs the following in this state:
- 99 (i) check, diagnose, overhaul, and repair:
- 100 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 101 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 102 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 103 engine;
- 104 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 105 aircraft:
- 106 (A) an inspection;
- 107 (B) a repair, including a structural repair or modification;
- 108 (C) changing landing gear; and
- 109 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 110 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 111 completely apply new paint to the fixed wing turbine powered aircraft; and
- 112 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 113 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 114 authority that certifies the fixed wing turbine powered aircraft.
- 115 (9) "Alcoholic beverage" means a beverage that:
- 116 (a) is suitable for human consumption; and
- 117 (b) contains .5% or more alcohol by volume.
- 118 (10) "Alternative energy" means:
- 119 (a) biomass energy;
- 120 (b) geothermal energy;

- 121 (c) hydroelectric energy;
- 122 (d) solar energy;
- 123 (e) wind energy; or
- 124 (f) energy that is derived from:
 - 125 (i) coal-to-liquids;
 - 126 (ii) nuclear fuel;
 - 127 (iii) oil-impregnated diatomaceous earth;
 - 128 (iv) oil sands;
 - 129 (v) oil shale;
 - 130 (vi) petroleum coke; or
 - 131 (vii) waste heat from:
 - 132 (A) an industrial facility; or
 - 133 (B) a power station in which an electric generator is driven through a process in which
 - 134 water is heated, turns into steam, and spins a steam turbine.
- 135 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 136 facility" means a facility that:
 - 137 (i) uses alternative energy to produce electricity; and
 - 138 (ii) has a production capacity of two megawatts or greater.
- 139 (b) A facility is an alternative energy electricity production facility regardless of
- 140 whether the facility is:
 - 141 (i) connected to an electric grid; or
 - 142 (ii) located on the premises of an electricity consumer.
- 143 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 144 provision of telecommunications service.
 - 145 (b) "Ancillary service" includes:
 - 146 (i) a conference bridging service;
 - 147 (ii) a detailed communications billing service;
 - 148 (iii) directory assistance;
 - 149 (iv) a vertical service; or
 - 150 (v) a voice mail service.
- 151 (13) "Area agency on aging" means the same as that term is defined in Section

152 [62A-3-101](#).

153 (14) "Assisted amusement device" means an amusement device, skill device, or ride
154 device that is started and stopped by an individual:

155 (a) who is not the purchaser or renter of the right to use or operate the amusement
156 device, skill device, or ride device; and

157 (b) at the direction of the seller of the right to use the amusement device, skill device,
158 or ride device.

159 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
160 washing of tangible personal property if the cleaning or washing labor is primarily performed
161 by an individual:

162 (a) who is not the purchaser of the cleaning or washing of the tangible personal
163 property; and

164 (b) at the direction of the seller of the cleaning or washing of the tangible personal
165 property.

166 (16) "Authorized carrier" means:

167 (a) in the case of vehicles operated over public highways, the holder of credentials
168 indicating that the vehicle is or will be operated pursuant to both the International Registration
169 Plan and the International Fuel Tax Agreement;

170 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
171 certificate or air carrier's operating certificate; or

172 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
173 stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling
174 stock in more than one state.

175 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
176 following that is used as the primary source of energy to produce fuel or electricity:

177 (i) material from a plant or tree; or

178 (ii) other organic matter that is available on a renewable basis, including:

179 (A) slash and brush from forests and woodlands;

180 (B) animal waste;

181 (C) waste vegetable oil;

182 (D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of

183 wastewater residuals, or through the conversion of a waste material through a nonincineration,
184 thermal conversion process;

185 (E) aquatic plants; and
186 (F) agricultural products.

187 (b) "Biomass energy" does not include:
188 (i) black liquor; or
189 (ii) treated woods.

190 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
191 property, products, or services if the tangible personal property, products, or services are:
192 (i) distinct and identifiable; and
193 (ii) sold for one nonitemized price.

194 (b) "Bundled transaction" does not include:
195 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
196 the basis of the selection by the purchaser of the items of tangible personal property included in
197 the transaction;
198 (ii) the sale of real property;
199 (iii) the sale of services to real property;
200 (iv) the retail sale of tangible personal property and a service if:
201 (A) the tangible personal property:
202 (I) is essential to the use of the service; and
203 (II) is provided exclusively in connection with the service; and
204 (B) the service is the true object of the transaction;
205 (v) the retail sale of two services if:
206 (A) one service is provided that is essential to the use or receipt of a second service;
207 (B) the first service is provided exclusively in connection with the second service; and
208 (C) the second service is the true object of the transaction;
209 (vi) a transaction that includes tangible personal property or a product subject to
210 taxation under this chapter and tangible personal property or a product that is not subject to
211 taxation under this chapter if the:
212 (A) seller's purchase price of the tangible personal property or product subject to
213 taxation under this chapter is de minimis; or

214 (B) seller's sales price of the tangible personal property or product subject to taxation
215 under this chapter is de minimis; and

216 (vii) the retail sale of tangible personal property that is not subject to taxation under
217 this chapter and tangible personal property that is subject to taxation under this chapter if:

218 (A) that retail sale includes:

219 (I) food and food ingredients;

220 (II) a drug;

221 (III) durable medical equipment;

222 (IV) mobility enhancing equipment;

223 (V) an over-the-counter drug;

224 (VI) a prosthetic device; or

225 (VII) a medical supply; and

226 (B) subject to Subsection (18)(f):

227 (I) the seller's purchase price of the tangible personal property subject to taxation under
228 this chapter is 50% or less of the seller's total purchase price of that retail sale; or

229 (II) the seller's sales price of the tangible personal property subject to taxation under
230 this chapter is 50% or less of the seller's total sales price of that retail sale.

231 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
232 service that is distinct and identifiable does not include:

233 (A) packaging that:

234 (I) accompanies the sale of the tangible personal property, product, or service; and

235 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
236 service;

237 (B) tangible personal property, a product, or a service provided free of charge with the
238 purchase of another item of tangible personal property, a product, or a service; or

239 (C) an item of tangible personal property, a product, or a service included in the
240 definition of "purchase price."

241 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
242 product, or a service is provided free of charge with the purchase of another item of tangible
243 personal property, a product, or a service if the sales price of the purchased item of tangible
244 personal property, product, or service does not vary depending on the inclusion of the tangible

245 personal property, product, or service provided free of charge.

246 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
247 does not include a price that is separately identified by tangible personal property, product, or
248 service on the following, regardless of whether the following is in paper format or electronic
249 format:

250 (A) a binding sales document; or

251 (B) another supporting sales-related document that is available to a purchaser.

252 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
253 supporting sales-related document that is available to a purchaser includes:

254 (A) a bill of sale;

255 (B) a contract;

256 (C) an invoice;

257 (D) a lease agreement;

258 (E) a periodic notice of rates and services;

259 (F) a price list;

260 (G) a rate card;

261 (H) a receipt; or

262 (I) a service agreement.

263 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
264 property or a product subject to taxation under this chapter is de minimis if:

265 (A) the seller's purchase price of the tangible personal property or product is 10% or
266 less of the seller's total purchase price of the bundled transaction; or

267 (B) the seller's sales price of the tangible personal property or product is 10% or less of
268 the seller's total sales price of the bundled transaction.

269 (ii) For purposes of Subsection (18)(b)(vi), a seller:

270 (A) shall use the seller's purchase price or the seller's sales price to determine if the
271 purchase price or sales price of the tangible personal property or product subject to taxation
272 under this chapter is de minimis; and

273 (B) may not use a combination of the seller's purchase price and the seller's sales price
274 to determine if the purchase price or sales price of the tangible personal property or product
275 subject to taxation under this chapter is de minimis.

276 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
277 contract to determine if the sales price of tangible personal property or a product is de minimis.

278 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
279 the seller's purchase price and the seller's sales price to determine if tangible personal property
280 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
281 price of that retail sale.

282 (19) "Certified automated system" means software certified by the governing board of
283 the agreement that:

284 (a) calculates the agreement sales and use tax imposed within a local taxing
285 jurisdiction:

286 (i) on a transaction; and

287 (ii) in the states that are members of the agreement;

288 (b) determines the amount of agreement sales and use tax to remit to a state that is a
289 member of the agreement; and

290 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

291 (20) "Certified service provider" means an agent certified:

292 (a) by the governing board of the agreement; and

293 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
294 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
295 own purchases.

296 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
297 suitable for general use.

298 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
299 commission shall make rules:

300 (i) listing the items that constitute "clothing"; and

301 (ii) that are consistent with the list of items that constitute "clothing" under the
302 agreement.

303 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

304 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
305 fuels that does not constitute industrial use under Subsection [~~56~~] (57) or residential use
306 under Subsection [~~106~~] (107).

307 (24) (a) "Common carrier" means a person engaged in or transacting the business of
308 transporting passengers, freight, merchandise, or other property for hire within this state.

309 (b) (i) "Common carrier" does not include a person who, at the time the person is
310 traveling to or from that person's place of employment, transports a passenger to or from the
311 passenger's place of employment.

312 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
313 Utah Administrative Rulemaking Act, the commission may make rules defining what
314 constitutes a person's place of employment.

315 (c) "Common carrier" does not include a person that provides transportation network
316 services, as defined in Section [13-51-102](#).

317 (25) "Component part" includes:

318 (a) poultry, dairy, and other livestock feed, and their components;

319 (b) baling ties and twine used in the baling of hay and straw;

320 (c) fuel used for providing temperature control of orchards and commercial
321 greenhouses doing a majority of their business in wholesale sales, and for providing power for
322 off-highway type farm machinery; and

323 (d) feed, seeds, and seedlings.

324 (26) "Computer" means an electronic device that accepts information:

325 (a) (i) in digital form; or

326 (ii) in a form similar to digital form; and

327 (b) manipulates that information for a result based on a sequence of instructions.

328 (27) "Computer software" means a set of coded instructions designed to cause:

329 (a) a computer to perform a task; or

330 (b) automatic data processing equipment to perform a task.

331 (28) "Computer software maintenance contract" means a contract that obligates a seller
332 of computer software to provide a customer with:

333 (a) future updates or upgrades to computer software;

334 (b) support services with respect to computer software; or

335 (c) a combination of Subsections (28)(a) and (b).

336 (29) (a) "Conference bridging service" means an ancillary service that links two or
337 more participants of an audio conference call or video conference call.

338 (b) "Conference bridging service" may include providing a telephone number as part of
339 the ancillary service described in Subsection (29)(a).

340 (c) "Conference bridging service" does not include a telecommunications service used
341 to reach the ancillary service described in Subsection (29)(a).

342 (30) "Construction materials" means any tangible personal property that will be
343 converted into real property.

344 (31) "Delivered electronically" means delivered to a purchaser by means other than
345 tangible storage media.

346 (32) (a) "Delivery charge" means a charge:

347 (i) by a seller of:

348 (A) tangible personal property;

349 (B) a product transferred electronically; or

350 (C) services; and

351 (ii) for preparation and delivery of the tangible personal property, product transferred
352 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
353 purchaser.

354 (b) "Delivery charge" includes a charge for the following:

355 (i) transportation;

356 (ii) shipping;

357 (iii) postage;

358 (iv) handling;

359 (v) crating; or

360 (vi) packing.

361 (33) "Detailed telecommunications billing service" means an ancillary service of
362 separately stating information pertaining to individual calls on a customer's billing statement.

363 (34) "Dietary supplement" means a product, other than tobacco, that:

364 (a) is intended to supplement the diet;

365 (b) contains one or more of the following dietary ingredients:

366 (i) a vitamin;

367 (ii) a mineral;

368 (iii) an herb or other botanical;

- 369 (iv) an amino acid;
- 370 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 371 dietary intake; or
- 372 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 373 described in Subsections (34)(b)(i) through (v);
- 374 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
- 375 (A) tablet form;
- 376 (B) capsule form;
- 377 (C) powder form;
- 378 (D) softgel form;
- 379 (E) gelcap form; or
- 380 (F) liquid form; or
- 381 (ii) if the product is not intended for ingestion in a form described in Subsections
- 382 (34)(c)(i)(A) through (F), is not represented:
- 383 (A) as conventional food; and
- 384 (B) for use as a sole item of:
- 385 (I) a meal; or
- 386 (II) the diet; and
- 387 (d) is required to be labeled as a dietary supplement:
- 388 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 389 (ii) as required by 21 C.F.R. Sec. 101.36.
- 390 (35) "Digital audio-visual work" means a series of related images which, when shown
- 391 in succession, imparts an impression of motion, together with accompanying sounds, if any.
- 392 (36) (a) "Digital audio work" means a work that results from the fixation of a series of
- 393 musical, spoken, or other sounds.
- 394 (b) "Digital audio work" includes a ringtone.
- 395 (37) "Digital book" means a work that is generally recognized in the ordinary and usual
- 396 sense as a book.
- 397 (38) (a) "Direct mail" means printed material delivered or distributed by United States
- 398 mail or other delivery service:
- 399 (i) to:

- 400 (A) a mass audience; or
- 401 (B) addressees on a mailing list provided:
 - 402 (I) by a purchaser of the mailing list; or
 - 403 (II) at the discretion of the purchaser of the mailing list; and
 - 404 (ii) if the cost of the printed material is not billed directly to the recipients.
- 405 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 406 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 407 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 408 single address.
- 409 (39) "Directory assistance" means an ancillary service of providing:
 - 410 (a) address information; or
 - 411 (b) telephone number information.
- 412 (40) (a) "Disposable home medical equipment or supplies" means medical equipment
- 413 or supplies that:
 - 414 (i) cannot withstand repeated use; and
 - 415 (ii) are purchased by, for, or on behalf of a person other than:
 - 416 (A) a health care facility as defined in Section [26-21-2](#);
 - 417 (B) a health care provider as defined in Section [78B-3-403](#);
 - 418 (C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
 - 419 (D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
 - 420 (b) "Disposable home medical equipment or supplies" does not include:
 - 421 (i) a drug;
 - 422 (ii) durable medical equipment;
 - 423 (iii) a hearing aid;
 - 424 (iv) a hearing aid accessory;
 - 425 (v) mobility enhancing equipment; or
 - 426 (vi) tangible personal property used to correct impaired vision, including:
 - 427 (A) eyeglasses; or
 - 428 (B) contact lenses.
 - 429 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 - 430 commission may by rule define what constitutes medical equipment or supplies.

431 (41) "Drilling equipment manufacturer" means a facility:
432 (a) located in the state;
433 (b) with respect to which 51% or more of the manufacturing activities of the facility
434 consist of manufacturing component parts of drilling equipment;
435 (c) that uses pressure of 800,000 or more pounds per square inch as part of the
436 manufacturing process; and
437 (d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the
438 manufacturing process.

439 (42) (a) "Drug" means a compound, substance, or preparation, or a component of a
440 compound, substance, or preparation that is:

- 441 (i) recognized in:
 - 442 (A) the official United States Pharmacopoeia;
 - 443 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 444 (C) the official National Formulary; or
 - 445 (D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
- 446 (ii) intended for use in the:
 - 447 (A) diagnosis of disease;
 - 448 (B) cure of disease;
 - 449 (C) mitigation of disease;
 - 450 (D) treatment of disease; or
 - 451 (E) prevention of disease; or
- 452 (iii) intended to affect:
 - 453 (A) the structure of the body; or
 - 454 (B) any function of the body.

- 455 (b) "Drug" does not include:
- 456 (i) food and food ingredients;
 - 457 (ii) a dietary supplement;
 - 458 (iii) an alcoholic beverage; or
 - 459 (iv) a prosthetic device.

460 (43) (a) Except as provided in Subsection (43)(c), "durable medical equipment" means
461 equipment that:

- 462 (i) can withstand repeated use;
- 463 (ii) is primarily and customarily used to serve a medical purpose;
- 464 (iii) generally is not useful to a person in the absence of illness or injury; and
- 465 (iv) is not worn in or on the body.
- 466 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 467 equipment described in Subsection (43)(a).
- 468 (c) "Durable medical equipment" does not include mobility enhancing equipment.
- 469 (44) "Electric energy storage asset" means property that is interconnected to the
- 470 electrical grid and is designed to:
- 471 (a) receive electrical energy;
- 472 (b) store electrical energy as another energy form; and
- 473 (c) (i) convert electrical energy described in Subsection (44)(b) back to electricity and
- 474 deliver such electricity for sale; or
- 475 (ii) use electrical energy described in Subsection (44)(b) to provide reliability or
- 476 economic benefits to the grid.
- 477 [~~44~~] (45) "Electronic" means:
- 478 (a) relating to technology; and
- 479 (b) having:
- 480 (i) electrical capabilities;
- 481 (ii) digital capabilities;
- 482 (iii) magnetic capabilities;
- 483 (iv) wireless capabilities;
- 484 (v) optical capabilities;
- 485 (vi) electromagnetic capabilities; or
- 486 (vii) capabilities similar to Subsections [~~44~~] (45)(b)(i) through (vi).
- 487 [~~45~~] (46) "Electronic financial payment service" means an establishment:
- 488 (a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and
- 489 Clearinghouse Activities, of the 2012 North American Industry Classification System of the
- 490 federal Executive Office of the President, Office of Management and Budget; and
- 491 (b) that performs electronic financial payment services.
- 492 [~~46~~] (47) "Employee" means the same as that term is defined in Section 59-10-401.

- 493 [~~(47)~~] (48) "Fixed guideway" means a public transit facility that uses and occupies:
494 (a) rail for the use of public transit; or
495 (b) a separate right-of-way for the use of public transit.
- 496 [~~(48)~~] (49) "Fixed wing turbine powered aircraft" means an aircraft that:
497 (a) is powered by turbine engines;
498 (b) operates on jet fuel; and
499 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 500 [~~(49)~~] (50) "Fixed wireless service" means a telecommunications service that provides
501 radio communication between fixed points.
- 502 [~~(50)~~] (51) (a) "Food and food ingredients" means substances:
503 (i) regardless of whether the substances are in:
504 (A) liquid form;
505 (B) concentrated form;
506 (C) solid form;
507 (D) frozen form;
508 (E) dried form; or
509 (F) dehydrated form; and
510 (ii) that are:
511 (A) sold for:
512 (I) ingestion by humans; or
513 (II) chewing by humans; and
514 (B) consumed for the substance's:
515 (I) taste; or
516 (II) nutritional value.
- 517 (b) "Food and food ingredients" includes an item described in Subsection [~~(91)~~]
518 (92)(b)(iii).
- 519 (c) "Food and food ingredients" does not include:
520 (i) an alcoholic beverage;
521 (ii) tobacco; or
522 (iii) prepared food.
- 523 [~~(51)~~] (52) (a) "Fundraising sales" means sales:

524 (i) (A) made by a school; or
525 (B) made by a school student;
526 (ii) that are for the purpose of raising funds for the school to purchase equipment,
527 materials, or provide transportation; and
528 (iii) that are part of an officially sanctioned school activity.
529 (b) For purposes of Subsection [~~(51)~~] (52)(a)(iii), "officially sanctioned school activity"
530 means a school activity:
531 (i) that is conducted in accordance with a formal policy adopted by the school or school
532 district governing the authorization and supervision of fundraising activities;
533 (ii) that does not directly or indirectly compensate an individual teacher or other
534 educational personnel by direct payment, commissions, or payment in kind; and
535 (iii) the net or gross revenues from which are deposited in a dedicated account
536 controlled by the school or school district.
537 [~~(52)~~] (53) "Geothermal energy" means energy contained in heat that continuously
538 flows outward from the earth that is used as the sole source of energy to produce electricity.
539 [~~(53)~~] (54) "Governing board of the agreement" means the governing board of the
540 agreement that is:
541 (a) authorized to administer the agreement; and
542 (b) established in accordance with the agreement.
543 [~~(54)~~] (55) (a) For purposes of Subsection 59-12-104(41), "governmental entity"
544 means:
545 (i) the executive branch of the state, including all departments, institutions, boards,
546 divisions, bureaus, offices, commissions, and committees;
547 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
548 Administrative Office of the Courts, and similar administrative units in the judicial branch;
549 (iii) the legislative branch of the state, including the House of Representatives, the
550 Senate, the Legislative Printing Office, the Office of Legislative Research and General
551 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
552 Analyst;
553 (iv) the National Guard;
554 (v) an independent entity as defined in Section 63E-1-102; or

555 (vi) a political subdivision as defined in Section 17B-1-102.

556 (b) "Governmental entity" does not include the state systems of public and higher
557 education, including:

558 (i) a school;

559 (ii) the State Board of Education;

560 (iii) the State Board of Regents; or

561 (iv) an institution of higher education described in Section 53B-1-102.

562 [~~55~~] (56) "Hydroelectric energy" means water used as the sole source of energy to
563 produce electricity.

564 [~~56~~] (57) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
565 or other fuels:

566 (a) in mining or extraction of minerals;

567 (b) in agricultural operations to produce an agricultural product up to the time of
568 harvest or placing the agricultural product into a storage facility, including:

569 (i) commercial greenhouses;

570 (ii) irrigation pumps;

571 (iii) farm machinery;

572 (iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
573 under Title 41, Chapter 1a, Part 2, Registration; and

574 (v) other farming activities;

575 (c) in manufacturing tangible personal property at an establishment described in:

576 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
577 the federal Executive Office of the President, Office of Management and Budget; or

578 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
579 American Industry Classification System of the federal Executive Office of the President,
580 Office of Management and Budget;

581 (d) by a scrap recycler if:

582 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
583 one or more of the following items into prepared grades of processed materials for use in new
584 products:

585 (A) iron;

- 586 (B) steel;
- 587 (C) nonferrous metal;
- 588 (D) paper;
- 589 (E) glass;
- 590 (F) plastic;
- 591 (G) textile; or
- 592 (H) rubber; and

593 (ii) the new products under Subsection [~~(56)~~] (57)(d)(i) would otherwise be made with
594 nonrecycled materials; or

595 (e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a
596 cogeneration facility as defined in Section 54-2-1.

597 [~~(57)~~] (58) (a) Except as provided in Subsection [~~(57)~~] (58)(b), "installation charge"
598 means a charge for installing:

- 599 (i) tangible personal property; or
- 600 (ii) a product transferred electronically.
- 601 (b) "Installation charge" does not include a charge for:
 - 602 (i) repairs or renovations of:
 - 603 (A) tangible personal property; or
 - 604 (B) a product transferred electronically; or
 - 605 (ii) attaching tangible personal property or a product transferred electronically:
 - 606 (A) to other tangible personal property; and
 - 607 (B) as part of a manufacturing or fabrication process.

608 [~~(58)~~] (59) "Institution of higher education" means an institution of higher education
609 listed in Section 53B-2-101.

610 [~~(59)~~] (60) (a) "Lease" or "rental" means a transfer of possession or control of tangible
611 personal property or a product transferred electronically for:

- 612 (i) (A) a fixed term; or
- 613 (B) an indeterminate term; and
- 614 (ii) consideration.

615 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
616 amount of consideration may be increased or decreased by reference to the amount realized

617 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
618 Code.

619 (c) "Lease" or "rental" does not include:

620 (i) a transfer of possession or control of property under a security agreement or
621 deferred payment plan that requires the transfer of title upon completion of the required
622 payments;

623 (ii) a transfer of possession or control of property under an agreement that requires the
624 transfer of title:

625 (A) upon completion of required payments; and

626 (B) if the payment of an option price does not exceed the greater of:

627 (I) \$100; or

628 (II) 1% of the total required payments; or

629 (iii) providing tangible personal property along with an operator for a fixed period of
630 time or an indeterminate period of time if the operator is necessary for equipment to perform as
631 designed.

632 (d) For purposes of Subsection [~~(59)~~] (60)(c)(iii), an operator is necessary for
633 equipment to perform as designed if the operator's duties exceed the:

634 (i) set-up of tangible personal property;

635 (ii) maintenance of tangible personal property; or

636 (iii) inspection of tangible personal property.

637 [~~(60)~~] (61) "Life science establishment" means an establishment in this state that is
638 classified under the following NAICS codes of the 2007 North American Industry
639 Classification System of the federal Executive Office of the President, Office of Management
640 and Budget:

641 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

642 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
643 Manufacturing; or

644 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

645 [~~(61)~~] (62) "Life science research and development facility" means a facility owned,
646 leased, or rented by a life science establishment if research and development is performed in
647 51% or more of the total area of the facility.

648 [~~(62)~~] (63) "Load and leave" means delivery to a purchaser by use of a tangible storage
649 media if the tangible storage media is not physically transferred to the purchaser.

650 [~~(63)~~] (64) "Local taxing jurisdiction" means a:

- 651 (a) county that is authorized to impose an agreement sales and use tax;
- 652 (b) city that is authorized to impose an agreement sales and use tax; or
- 653 (c) town that is authorized to impose an agreement sales and use tax.

654 [~~(64)~~] (65) "Manufactured home" means the same as that term is defined in Section
655 15A-1-302.

656 [~~(65)~~] (66) "Manufacturing facility" means:

657 (a) an establishment described in:

658 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
659 the federal Executive Office of the President, Office of Management and Budget; or

660 (ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North
661 American Industry Classification System of the federal Executive Office of the President,
662 Office of Management and Budget;

663 (b) a scrap recycler if:

664 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
665 one or more of the following items into prepared grades of processed materials for use in new
666 products:

- 667 (A) iron;
- 668 (B) steel;
- 669 (C) nonferrous metal;
- 670 (D) paper;
- 671 (E) glass;
- 672 (F) plastic;
- 673 (G) textile; or
- 674 (H) rubber; and

675 (ii) the new products under Subsection [~~(65)~~] (66)(b)(i) would otherwise be made with
676 nonrecycled materials; or

677 (c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is
678 placed in service on or after May 1, 2006.

679 [~~(66)~~] (67) "Member of the immediate family of the producer" means a person who is
680 related to a producer described in Subsection 59-12-104(20)(a) as a:

681 (a) child or stepchild, regardless of whether the child or stepchild is:

682 (i) an adopted child or adopted stepchild; or

683 (ii) a foster child or foster stepchild;

684 (b) grandchild or stepgrandchild;

685 (c) grandparent or stepgrandparent;

686 (d) nephew or stepnephew;

687 (e) niece or stepniece;

688 (f) parent or stepparent;

689 (g) sibling or stepsibling;

690 (h) spouse;

691 (i) person who is the spouse of a person described in Subsections [~~(66)~~] (67)(a) through
692 (g); or

693 (j) person similar to a person described in Subsections [~~(66)~~] (67)(a) through (i) as
694 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
695 Administrative Rulemaking Act.

696 [~~(67)~~] (68) "Mobile home" means the same as that term is defined in Section
697 15A-1-302.

698 [~~(68)~~] (69) "Mobile telecommunications service" means the same as that term is
699 defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

700 [~~(69)~~] (70) (a) "Mobile wireless service" means a telecommunications service,
701 regardless of the technology used, if:

702 (i) the origination point of the conveyance, routing, or transmission is not fixed;

703 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

704 (iii) the origination point described in Subsection [~~(69)~~] (70)(a)(i) and the termination
705 point described in Subsection [~~(69)~~] (70)(a)(ii) are not fixed.

706 (b) "Mobile wireless service" includes a telecommunications service that is provided
707 by a commercial mobile radio service provider.

708 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
709 commission may by rule define "commercial mobile radio service provider."

710 ~~[(70)]~~ (71) (a) Except as provided in Subsection ~~[(70)]~~ (71)(c), "mobility enhancing
711 equipment" means equipment that is:

712 (i) primarily and customarily used to provide or increase the ability to move from one
713 place to another;

714 (ii) appropriate for use in a:

715 (A) home; or

716 (B) motor vehicle; and

717 (iii) not generally used by persons with normal mobility.

718 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
719 the equipment described in Subsection ~~[(70)]~~ (71)(a).

720 (c) "Mobility enhancing equipment" does not include:

721 (i) a motor vehicle;

722 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
723 vehicle manufacturer;

724 (iii) durable medical equipment; or

725 (iv) a prosthetic device.

726 ~~[(71)]~~ (72) "Model 1 seller" means a seller registered under the agreement that has
727 selected a certified service provider as the seller's agent to perform all of the seller's sales and
728 use tax functions for agreement sales and use taxes other than the seller's obligation under
729 Section 59-12-124 to remit a tax on the seller's own purchases.

730 ~~[(72)]~~ (73) "Model 2 seller" means a seller registered under the agreement that:

731 (a) except as provided in Subsection ~~[(72)]~~ (73)(b), has selected a certified automated
732 system to perform the seller's sales tax functions for agreement sales and use taxes; and

733 (b) retains responsibility for remitting all of the sales tax:

734 (i) collected by the seller; and

735 (ii) to the appropriate local taxing jurisdiction.

736 ~~[(73)]~~ (74) (a) Subject to Subsection ~~[(73)]~~ (74)(b), "model 3 seller" means a seller
737 registered under the agreement that has:

738 (i) sales in at least five states that are members of the agreement;

739 (ii) total annual sales revenues of at least \$500,000,000;

740 (iii) a proprietary system that calculates the amount of tax:

- 741 (A) for an agreement sales and use tax; and
- 742 (B) due to each local taxing jurisdiction; and
- 743 (iv) entered into a performance agreement with the governing board of the agreement.
- 744 (b) For purposes of Subsection [~~(73)~~] (74)(a), "model 3 seller" includes an affiliated
- 745 group of sellers using the same proprietary system.
- 746 [~~(74)~~] (75) "Model 4 seller" means a seller that is registered under the agreement and is
- 747 not a model 1 seller, model 2 seller, or model 3 seller.
- 748 [~~(75)~~] (76) "Modular home" means a modular unit as defined in Section [15A-1-302](#).
- 749 [~~(76)~~] (77) "Motor vehicle" means the same as that term is defined in Section
- 750 [41-1a-102](#).
- 751 [~~(77)~~] (78) "Oil sands" means impregnated bituminous sands that:
- 752 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
- 753 other hydrocarbons, or otherwise treated;
- 754 (b) yield mixtures of liquid hydrocarbon; and
- 755 (c) require further processing other than mechanical blending before becoming finished
- 756 petroleum products.
- 757 [~~(78)~~] (79) "Oil shale" means a group of fine black to dark brown shales containing
- 758 kerogen material that yields petroleum upon heating and distillation.
- 759 [~~(79)~~] (80) "Optional computer software maintenance contract" means a computer
- 760 software maintenance contract that a customer is not obligated to purchase as a condition to the
- 761 retail sale of computer software.
- 762 [~~(80)~~] (81) (a) "Other fuels" means products that burn independently to produce heat or
- 763 energy.
- 764 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 765 personal property.
- 766 [~~(81)~~] (82) (a) "Paging service" means a telecommunications service that provides
- 767 transmission of a coded radio signal for the purpose of activating a specific pager.
- 768 (b) For purposes of Subsection [~~(81)~~] (82)(a), the transmission of a coded radio signal
- 769 includes a transmission by message or sound.
- 770 [~~(82)~~] (83) "Pawnbroker" means the same as that term is defined in Section
- 771 [13-32a-102](#).

772 [~~(83)~~] (84) "Pawn transaction" means the same as that term is defined in Section
773 13-32a-102.

774 [~~(84)~~] (85) (a) "Permanently attached to real property" means that for tangible personal
775 property attached to real property:

776 (i) the attachment of the tangible personal property to the real property:

777 (A) is essential to the use of the tangible personal property; and

778 (B) suggests that the tangible personal property will remain attached to the real

779 property in the same place over the useful life of the tangible personal property; or

780 (ii) if the tangible personal property is detached from the real property, the detachment
781 would:

782 (A) cause substantial damage to the tangible personal property; or

783 (B) require substantial alteration or repair of the real property to which the tangible

784 personal property is attached.

785 (b) "Permanently attached to real property" includes:

786 (i) the attachment of an accessory to the tangible personal property if the accessory is:

787 (A) essential to the operation of the tangible personal property; and

788 (B) attached only to facilitate the operation of the tangible personal property;

789 (ii) a temporary detachment of tangible personal property from real property for a

790 repair or renovation if the repair or renovation is performed where the tangible personal

791 property and real property are located; or

792 (iii) property attached to oil, gas, or water pipelines, except for the property listed in

793 Subsection [~~(84)~~] (85)(c)(iii) or (iv).

794 (c) "Permanently attached to real property" does not include:

795 (i) the attachment of portable or movable tangible personal property to real property if

796 that portable or movable tangible personal property is attached to real property only for:

797 (A) convenience;

798 (B) stability; or

799 (C) for an obvious temporary purpose;

800 (ii) the detachment of tangible personal property from real property except for the

801 detachment described in Subsection [~~(84)~~] (85)(b)(ii);

802 (iii) an attachment of the following tangible personal property to real property if the

803 attachment to real property is only through a line that supplies water, electricity, gas,
804 telecommunications, cable, or supplies a similar item as determined by the commission by rule
805 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

806 (A) a computer;

807 (B) a telephone;

808 (C) a television; or

809 (D) tangible personal property similar to Subsections [~~84~~] (85)(c)(iii)(A) through (C)

810 as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

811 Administrative Rulemaking Act; or

812 (iv) an item listed in Subsection [~~125~~] (126)(c).

813 [~~85~~] (86) "Person" includes any individual, firm, partnership, joint venture,

814 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,

815 city, municipality, district, or other local governmental entity of the state, or any group or

816 combination acting as a unit.

817 [~~86~~] (87) "Place of primary use":

818 (a) for telecommunications service other than mobile telecommunications service,

819 means the street address representative of where the customer's use of the telecommunications

820 service primarily occurs, which shall be:

821 (i) the residential street address of the customer; or

822 (ii) the primary business street address of the customer; or

823 (b) for mobile telecommunications service, means the same as that term is defined in

824 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

825 [~~87~~] (88) (a) "Postpaid calling service" means a telecommunications service a person

826 obtains by making a payment on a call-by-call basis:

827 (i) through the use of a:

828 (A) bank card;

829 (B) credit card;

830 (C) debit card; or

831 (D) travel card; or

832 (ii) by a charge made to a telephone number that is not associated with the origination

833 or termination of the telecommunications service.

834 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
835 service, that would be a prepaid wireless calling service if the service were exclusively a
836 telecommunications service.

837 [~~(88)~~] (89) "Postproduction" means an activity related to the finishing or duplication of
838 a medium described in Subsection 59-12-104(54)(a).

839 [~~(89)~~] (90) "Prepaid calling service" means a telecommunications service:

840 (a) that allows a purchaser access to telecommunications service that is exclusively
841 telecommunications service;

842 (b) that:

843 (i) is paid for in advance; and

844 (ii) enables the origination of a call using an:

845 (A) access number; or

846 (B) authorization code;

847 (c) that is dialed:

848 (i) manually; or

849 (ii) electronically; and

850 (d) sold in predetermined units or dollars that decline:

851 (i) by a known amount; and

852 (ii) with use.

853 [~~(90)~~] (91) "Prepaid wireless calling service" means a telecommunications service:

854 (a) that provides the right to utilize:

855 (i) mobile wireless service; and

856 (ii) other service that is not a telecommunications service, including:

857 (A) the download of a product transferred electronically;

858 (B) a content service; or

859 (C) an ancillary service;

860 (b) that:

861 (i) is paid for in advance; and

862 (ii) enables the origination of a call using an:

863 (A) access number; or

864 (B) authorization code;

- 865 (c) that is dialed:
- 866 (i) manually; or
- 867 (ii) electronically; and
- 868 (d) sold in predetermined units or dollars that decline:
- 869 (i) by a known amount; and
- 870 (ii) with use.
- 871 [~~(91)~~] (92) (a) "Prepared food" means:
- 872 (i) food:
- 873 (A) sold in a heated state; or
- 874 (B) heated by a seller;
- 875 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 876 item; or
- 877 (iii) except as provided in Subsection [~~(91)~~] (92)(c), food sold with an eating utensil
- 878 provided by the seller, including a:
- 879 (A) plate;
- 880 (B) knife;
- 881 (C) fork;
- 882 (D) spoon;
- 883 (E) glass;
- 884 (F) cup;
- 885 (G) napkin; or
- 886 (H) straw.
- 887 (b) "Prepared food" does not include:
- 888 (i) food that a seller only:
- 889 (A) cuts;
- 890 (B) repackages; or
- 891 (C) pasteurizes; or
- 892 (ii) (A) the following:
- 893 (I) raw egg;
- 894 (II) raw fish;
- 895 (III) raw meat;

- 896 (IV) raw poultry; or
- 897 (V) a food containing an item described in Subsections [~~91~~] (92)(b)(ii)(A)(I) through
- 898 (IV); and
- 899 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 900 Food and Drug Administration's Food Code that a consumer cook the items described in
- 901 Subsection [~~91~~] (92)(b)(ii)(A) to prevent food borne illness; or
- 902 (iii) the following if sold without eating utensils provided by the seller:
- 903 (A) food and food ingredients sold by a seller if the seller's proper primary
- 904 classification under the 2002 North American Industry Classification System of the federal
- 905 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 906 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 907 Manufacturing;
- 908 (B) food and food ingredients sold in an unheated state:
- 909 (I) by weight or volume; and
- 910 (II) as a single item; or
- 911 (C) a bakery item, including:
- 912 (I) a bagel;
- 913 (II) a bar;
- 914 (III) a biscuit;
- 915 (IV) bread;
- 916 (V) a bun;
- 917 (VI) a cake;
- 918 (VII) a cookie;
- 919 (VIII) a croissant;
- 920 (IX) a danish;
- 921 (X) a donut;
- 922 (XI) a muffin;
- 923 (XII) a pastry;
- 924 (XIII) a pie;
- 925 (XIV) a roll;
- 926 (XV) a tart;

- 927 (XVI) a torte; or
928 (XVII) a tortilla.
929 (c) An eating utensil provided by the seller does not include the following used to
930 transport the food:
931 (i) a container; or
932 (ii) packaging.
933 ~~[(92)]~~ (93) "Prescription" means an order, formula, or recipe that is issued:
934 (a) (i) orally;
935 (ii) in writing;
936 (iii) electronically; or
937 (iv) by any other manner of transmission; and
938 (b) by a licensed practitioner authorized by the laws of a state.
939 ~~[(93)]~~ (94) (a) Except as provided in Subsection ~~[(93)]~~ (94)(b)(ii) or (iii), "prewritten
940 computer software" means computer software that is not designed and developed:
941 (i) by the author or other creator of the computer software; and
942 (ii) to the specifications of a specific purchaser.
943 (b) "Prewritten computer software" includes:
944 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
945 software is not designed and developed:
946 (A) by the author or other creator of the computer software; and
947 (B) to the specifications of a specific purchaser;
948 (ii) computer software designed and developed by the author or other creator of the
949 computer software to the specifications of a specific purchaser if the computer software is sold
950 to a person other than the purchaser; or
951 (iii) except as provided in Subsection ~~[(93)]~~ (94)(c), prewritten computer software or a
952 prewritten portion of prewritten computer software:
953 (A) that is modified or enhanced to any degree; and
954 (B) if the modification or enhancement described in Subsection ~~[(93)]~~ (94)(b)(iii)(A) is
955 designed and developed to the specifications of a specific purchaser.
956 (c) "Prewritten computer software" does not include a modification or enhancement
957 described in Subsection ~~[(93)]~~ (94)(b)(iii) if the charges for the modification or enhancement

958 are:

959 (i) reasonable; and

960 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
961 invoice or other statement of price provided to the purchaser at the time of sale or later, as
962 demonstrated by:

963 (A) the books and records the seller keeps at the time of the transaction in the regular
964 course of business, including books and records the seller keeps at the time of the transaction in
965 the regular course of business for nontax purposes;

966 (B) a preponderance of the facts and circumstances at the time of the transaction; and

967 (C) the understanding of all of the parties to the transaction.

968 [~~94~~] (95) (a) "Private communications service" means a telecommunications service:

969 (i) that entitles a customer to exclusive or priority use of one or more communications
970 channels between or among termination points; and

971 (ii) regardless of the manner in which the one or more communications channels are
972 connected.

973 (b) "Private communications service" includes the following provided in connection
974 with the use of one or more communications channels:

975 (i) an extension line;

976 (ii) a station;

977 (iii) switching capacity; or

978 (iv) another associated service that is provided in connection with the use of one or
979 more communications channels as defined in Section 59-12-215.

980 [~~95~~] (96) (a) Except as provided in Subsection [~~95~~] (96)(b), "product transferred
981 electronically" means a product transferred electronically that would be subject to a tax under
982 this chapter if that product was transferred in a manner other than electronically.

983 (b) "Product transferred electronically" does not include:

984 (i) an ancillary service;

985 (ii) computer software; or

986 (iii) a telecommunications service.

987 [~~96~~] (97) (a) "Prosthetic device" means a device that is worn on or in the body to:

988 (i) artificially replace a missing portion of the body;

- 989 (ii) prevent or correct a physical deformity or physical malfunction; or
- 990 (iii) support a weak or deformed portion of the body.
- 991 (b) "Prosthetic device" includes:
- 992 (i) parts used in the repairs or renovation of a prosthetic device;
- 993 (ii) replacement parts for a prosthetic device;
- 994 (iii) a dental prosthesis; or
- 995 (iv) a hearing aid.
- 996 (c) "Prosthetic device" does not include:
- 997 (i) corrective eyeglasses; or
- 998 (ii) contact lenses.
- 999 [~~97~~] (98) (a) "Protective equipment" means an item:
- 1000 (i) for human wear; and
- 1001 (ii) that is:
- 1002 (A) designed as protection:
- 1003 (I) to the wearer against injury or disease; or
- 1004 (II) against damage or injury of other persons or property; and
- 1005 (B) not suitable for general use.
- 1006 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1007 commission shall make rules:
- 1008 (i) listing the items that constitute "protective equipment"; and
- 1009 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1010 under the agreement.
- 1011 [~~98~~] (99) (a) For purposes of Subsection 59-12-104(41), "publication" means any
- 1012 written or printed matter, other than a photocopy:
- 1013 (i) regardless of:
- 1014 (A) characteristics;
- 1015 (B) copyright;
- 1016 (C) form;
- 1017 (D) format;
- 1018 (E) method of reproduction; or
- 1019 (F) source; and

1020 (ii) made available in printed or electronic format.

1021 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1022 commission may by rule define the term "photocopy."

1023 [~~(99)~~] (100) (a) "Purchase price" and "sales price" mean the total amount of

1024 consideration:

1025 (i) valued in money; and

1026 (ii) for which tangible personal property, a product transferred electronically, or

1027 services are:

1028 (A) sold;

1029 (B) leased; or

1030 (C) rented.

1031 (b) "Purchase price" and "sales price" include:

1032 (i) the seller's cost of the tangible personal property, a product transferred

1033 electronically, or services sold;

1034 (ii) expenses of the seller, including:

1035 (A) the cost of materials used;

1036 (B) a labor cost;

1037 (C) a service cost;

1038 (D) interest;

1039 (E) a loss;

1040 (F) the cost of transportation to the seller; or

1041 (G) a tax imposed on the seller;

1042 (iii) a charge by the seller for any service necessary to complete the sale; or

1043 (iv) consideration a seller receives from a person other than the purchaser if:

1044 (A) (I) the seller actually receives consideration from a person other than the purchaser;

1045 and

1046 (II) the consideration described in Subsection [~~(99)~~] (100)(b)(iv)(A)(I) is directly

1047 related to a price reduction or discount on the sale;

1048 (B) the seller has an obligation to pass the price reduction or discount through to the

1049 purchaser;

1050 (C) the amount of the consideration attributable to the sale is fixed and determinable by

1051 the seller at the time of the sale to the purchaser; and

1052 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
1053 seller to claim a price reduction or discount; and

1054 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
1055 coupon, or other documentation with the understanding that the person other than the seller
1056 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1057 (II) the purchaser identifies that purchaser to the seller as a member of a group or
1058 organization allowed a price reduction or discount, except that a preferred customer card that is
1059 available to any patron of a seller does not constitute membership in a group or organization
1060 allowed a price reduction or discount; or

1061 (III) the price reduction or discount is identified as a third party price reduction or
1062 discount on the:

1063 (Aa) invoice the purchaser receives; or

1064 (Bb) certificate, coupon, or other documentation the purchaser presents.

1065 (c) "Purchase price" and "sales price" do not include:

1066 (i) a discount:

1067 (A) in a form including:

1068 (I) cash;

1069 (II) term; or

1070 (III) coupon;

1071 (B) that is allowed by a seller;

1072 (C) taken by a purchaser on a sale; and

1073 (D) that is not reimbursed by a third party; or

1074 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
1075 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
1076 sale or later, as demonstrated by the books and records the seller keeps at the time of the
1077 transaction in the regular course of business, including books and records the seller keeps at the
1078 time of the transaction in the regular course of business for nontax purposes, by a
1079 preponderance of the facts and circumstances at the time of the transaction, and by the
1080 understanding of all of the parties to the transaction:

1081 (A) the following from credit extended on the sale of tangible personal property or

1082 services:

- 1083 (I) a carrying charge;
- 1084 (II) a financing charge; or
- 1085 (III) an interest charge;
- 1086 (B) a delivery charge;
- 1087 (C) an installation charge;
- 1088 (D) a manufacturer rebate on a motor vehicle; or
- 1089 (E) a tax or fee legally imposed directly on the consumer.

1090 [~~(100)~~] (101) "Purchaser" means a person to whom:

- 1091 (a) a sale of tangible personal property is made;
- 1092 (b) a product is transferred electronically; or
- 1093 (c) a service is furnished.

1094 [~~(101)~~] (102) "Qualifying enterprise data center" means an establishment that will:

- 1095 (a) own and operate a data center facility that will house a group of networked server
- 1096 computers in one physical location in order to centralize the dissemination, management, and
- 1097 storage of data and information;
- 1098 (b) be located in the state;
- 1099 (c) be a new operation constructed on or after July 1, 2016;
- 1100 (d) consist of one or more buildings that total 150,000 or more square feet;
- 1101 (e) be owned or leased by:
 - 1102 (i) the establishment; or
 - 1103 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 - 1104 establishment; and
- 1105 (f) be located on one or more parcels of land that are owned or leased by:
 - 1106 (i) the establishment; or
 - 1107 (ii) a person under common ownership, as defined in Section 59-7-101, of the
 - 1108 establishment.

1109 [~~(102)~~] (103) "Regularly rented" means:

- 1110 (a) rented to a guest for value three or more times during a calendar year; or
- 1111 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1112 value.

1113 [~~(103)~~] (104) "Rental" means the same as that term is defined in Subsection [~~(59)~~] (60).

1114 [~~(104)~~] (105) (a) Except as provided in Subsection [~~(104)~~] (105)(b), "repairs or
1115 renovations of tangible personal property" means:

1116 (i) a repair or renovation of tangible personal property that is not permanently attached
1117 to real property; or

1118 (ii) attaching tangible personal property or a product transferred electronically to other
1119 tangible personal property or detaching tangible personal property or a product transferred
1120 electronically from other tangible personal property if:

1121 (A) the other tangible personal property to which the tangible personal property or
1122 product transferred electronically is attached or from which the tangible personal property or
1123 product transferred electronically is detached is not permanently attached to real property; and

1124 (B) the attachment of tangible personal property or a product transferred electronically
1125 to other tangible personal property or detachment of tangible personal property or a product
1126 transferred electronically from other tangible personal property is made in conjunction with a
1127 repair or replacement of tangible personal property or a product transferred electronically.

1128 (b) "Repairs or renovations of tangible personal property" does not include:

1129 (i) attaching prewritten computer software to other tangible personal property if the
1130 other tangible personal property to which the prewritten computer software is attached is not
1131 permanently attached to real property; or

1132 (ii) detaching prewritten computer software from other tangible personal property if the
1133 other tangible personal property from which the prewritten computer software is detached is
1134 not permanently attached to real property.

1135 [~~(105)~~] (106) "Research and development" means the process of inquiry or
1136 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
1137 process of preparing those devices, technologies, or applications for marketing.

1138 [~~(106)~~] (107) (a) "Residential telecommunications services" means a
1139 telecommunications service or an ancillary service that is provided to an individual for personal
1140 use:

1141 (i) at a residential address; or

1142 (ii) at an institution, including a nursing home or a school, if the telecommunications
1143 service or ancillary service is provided to and paid for by the individual residing at the

1144 institution rather than the institution.

1145 (b) For purposes of Subsection [~~(106)~~] (107)(a)(i), a residential address includes an:

1146 (i) apartment; or

1147 (ii) other individual dwelling unit.

1148 [~~(107)~~] (108) "Residential use" means the use in or around a home, apartment building,
1149 sleeping quarters, and similar facilities or accommodations.

1150 [~~(108)~~] (109) (a) "Retailer" means any person engaged in a regularly organized
1151 business in tangible personal property or any other taxable transaction under Subsection
1152 59-12-103(1), and who is selling to the user or consumer and not for resale.

1153 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1154 engaged in the business of selling to users or consumers within the state.

1155 [~~(109)~~] (110) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1156 other than:

1157 (a) resale;

1158 (b) sublease; or

1159 (c) subrent.

1160 [~~(110)~~] (111) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1161 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1162 Subsection 59-12-103(1), for consideration.

1163 (b) "Sale" includes:

1164 (i) installment and credit sales;

1165 (ii) any closed transaction constituting a sale;

1166 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1167 chapter;

1168 (iv) any transaction if the possession of property is transferred but the seller retains the
1169 title as security for the payment of the price; and

1170 (v) any transaction under which right to possession, operation, or use of any article of
1171 tangible personal property is granted under a lease or contract and the transfer of possession
1172 would be taxable if an outright sale were made.

1173 [~~(111)~~] (112) "Sale at retail" means the same as that term is defined in Subsection
1174 [~~(109)~~] (110).

1175 ~~[(H2)]~~ (113) "Sale-leaseback transaction" means a transaction by which title to
1176 tangible personal property or a product transferred electronically that is subject to a tax under
1177 this chapter is transferred:

1178 (a) by a purchaser-lessee;

1179 (b) to a lessor;

1180 (c) for consideration; and

1181 (d) if:

1182 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1183 of the tangible personal property or product transferred electronically;

1184 (ii) the sale of the tangible personal property or product transferred electronically to the
1185 lessor is intended as a form of financing:

1186 (A) for the tangible personal property or product transferred electronically; and

1187 (B) to the purchaser-lessee; and

1188 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1189 is required to:

1190 (A) capitalize the tangible personal property or product transferred electronically for
1191 financial reporting purposes; and

1192 (B) account for the lease payments as payments made under a financing arrangement.

1193 ~~[(H3)]~~ (114) "Sales price" means the same as that term is defined in Subsection ~~[(99)]~~
1194 (100).

1195 ~~[(H4)]~~ (115) (a) "Sales relating to schools" means the following sales by, amounts
1196 paid to, or amounts charged by a school:

1197 (i) sales that are directly related to the school's educational functions or activities
1198 including:

1199 (A) the sale of:

1200 (I) textbooks;

1201 (II) textbook fees;

1202 (III) laboratory fees;

1203 (IV) laboratory supplies; or

1204 (V) safety equipment;

1205 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

1206 that:

1207 (I) a student is specifically required to wear as a condition of participation in a
1208 school-related event or school-related activity; and

1209 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1210 place of ordinary clothing;

1211 (C) sales of the following if the net or gross revenues generated by the sales are
1212 deposited into a school district fund or school fund dedicated to school meals:

1213 (I) food and food ingredients; or

1214 (II) prepared food; or

1215 (D) transportation charges for official school activities; or

1216 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1217 event or school-related activity.

1218 (b) "Sales relating to schools" does not include:

1219 (i) bookstore sales of items that are not educational materials or supplies;

1220 (ii) except as provided in Subsection [~~(114)~~] (115)(a)(i)(B):

1221 (A) clothing;

1222 (B) clothing accessories or equipment;

1223 (C) protective equipment; or

1224 (D) sports or recreational equipment; or

1225 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1226 event or school-related activity if the amounts paid or charged are passed through to a person:

1227 (A) other than a:

1228 (I) school;

1229 (II) nonprofit organization authorized by a school board or a governing body of a
1230 private school to organize and direct a competitive secondary school activity; or

1231 (III) nonprofit association authorized by a school board or a governing body of a
1232 private school to organize and direct a competitive secondary school activity; and

1233 (B) that is required to collect sales and use taxes under this chapter.

1234 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1235 commission may make rules defining the term "passed through."

1236 [~~(115)~~] (116) For purposes of this section and Section [59-12-104](#), "school":

- 1237 (a) means:
- 1238 (i) an elementary school or a secondary school that:
- 1239 (A) is a:
- 1240 (I) public school; or
- 1241 (II) private school; and
- 1242 (B) provides instruction for one or more grades kindergarten through 12; or
- 1243 (ii) a public school district; and
- 1244 (b) includes the Electronic High School as defined in Section [53E-10-601](#).
- 1245 [~~(H6)~~] (117) "Seller" means a person that makes a sale, lease, or rental of:
- 1246 (a) tangible personal property;
- 1247 (b) a product transferred electronically; or
- 1248 (c) a service.
- 1249 [~~(H7)~~] (118) (a) "Semiconductor fabricating, processing, research, or development
- 1250 materials" means tangible personal property or a product transferred electronically if the
- 1251 tangible personal property or product transferred electronically is:
- 1252 (i) used primarily in the process of:
- 1253 (A) (I) manufacturing a semiconductor;
- 1254 (II) fabricating a semiconductor; or
- 1255 (III) research or development of a:
- 1256 (Aa) semiconductor; or
- 1257 (Bb) semiconductor manufacturing process; or
- 1258 (B) maintaining an environment suitable for a semiconductor; or
- 1259 (ii) consumed primarily in the process of:
- 1260 (A) (I) manufacturing a semiconductor;
- 1261 (II) fabricating a semiconductor; or
- 1262 (III) research or development of a:
- 1263 (Aa) semiconductor; or
- 1264 (Bb) semiconductor manufacturing process; or
- 1265 (B) maintaining an environment suitable for a semiconductor.
- 1266 (b) "Semiconductor fabricating, processing, research, or development materials"
- 1267 includes:

1268 (i) parts used in the repairs or renovations of tangible personal property or a product
1269 transferred electronically described in Subsection [~~(117)~~] (118)(a); or

1270 (ii) a chemical, catalyst, or other material used to:

1271 (A) produce or induce in a semiconductor a:

1272 (I) chemical change; or

1273 (II) physical change;

1274 (B) remove impurities from a semiconductor; or

1275 (C) improve the marketable condition of a semiconductor.

1276 [~~(118)~~] (119) "Senior citizen center" means a facility having the primary purpose of
1277 providing services to the aged as defined in Section 62A-3-101.

1278 [~~(119)~~] (120) (a) Subject to Subsections [~~(119)~~] (120)(b) and (c), "short-term lodging
1279 consumable" means tangible personal property that:

1280 (i) a business that provides accommodations and services described in Subsection
1281 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
1282 to a purchaser;

1283 (ii) is intended to be consumed by the purchaser; and

1284 (iii) is:

1285 (A) included in the purchase price of the accommodations and services; and

1286 (B) not separately stated on an invoice, bill of sale, or other similar document provided
1287 to the purchaser.

1288 (b) "Short-term lodging consumable" includes:

1289 (i) a beverage;

1290 (ii) a brush or comb;

1291 (iii) a cosmetic;

1292 (iv) a hair care product;

1293 (v) lotion;

1294 (vi) a magazine;

1295 (vii) makeup;

1296 (viii) a meal;

1297 (ix) mouthwash;

1298 (x) nail polish remover;

- 1299 (xi) a newspaper;
- 1300 (xii) a notepad;
- 1301 (xiii) a pen;
- 1302 (xiv) a pencil;
- 1303 (xv) a razor;
- 1304 (xvi) saline solution;
- 1305 (xvii) a sewing kit;
- 1306 (xviii) shaving cream;
- 1307 (xix) a shoe shine kit;
- 1308 (xx) a shower cap;
- 1309 (xxi) a snack item;
- 1310 (xxii) soap;
- 1311 (xxiii) toilet paper;
- 1312 (xxiv) a toothbrush;
- 1313 (xxv) toothpaste; or
- 1314 (xxvi) an item similar to Subsections [~~(119)~~] (120)(b)(i) through (xxv) as the
- 1315 commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah
- 1316 Administrative Rulemaking Act.
- 1317 (c) "Short-term lodging consumable" does not include:
- 1318 (i) tangible personal property that is cleaned or washed to allow the tangible personal
- 1319 property to be reused; or
- 1320 (ii) a product transferred electronically.
- 1321 [~~(120)~~] (121) "Simplified electronic return" means the electronic return:
- 1322 (a) described in Section 318(C) of the agreement; and
- 1323 (b) approved by the governing board of the agreement.
- 1324 [~~(121)~~] (122) "Solar energy" means the sun used as the sole source of energy for
- 1325 producing electricity.
- 1326 [~~(122)~~] (123) (a) "Sports or recreational equipment" means an item:
- 1327 (i) designed for human use; and
- 1328 (ii) that is:
- 1329 (A) worn in conjunction with:

- 1330 (I) an athletic activity; or
- 1331 (II) a recreational activity; and
- 1332 (B) not suitable for general use.
- 1333 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1334 commission shall make rules:
 - 1335 (i) listing the items that constitute "sports or recreational equipment"; and
 - 1336 (ii) that are consistent with the list of items that constitute "sports or recreational
 - 1337 equipment" under the agreement.
- 1338 [~~(123)~~] (124) "State" means the state of Utah, its departments, and agencies.
- 1339 [~~(124)~~] (125) "Storage" means any keeping or retention of tangible personal property or
- 1340 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 1341 except sale in the regular course of business.
- 1342 [~~(125)~~] (126) (a) Except as provided in Subsection [~~(125)~~] (126)(d) or (e), "tangible
- 1343 personal property" means personal property that:
 - 1344 (i) may be:
 - 1345 (A) seen;
 - 1346 (B) weighed;
 - 1347 (C) measured;
 - 1348 (D) felt; or
 - 1349 (E) touched; or
 - 1350 (ii) is in any manner perceptible to the senses.
- 1351 (b) "Tangible personal property" includes:
 - 1352 (i) electricity;
 - 1353 (ii) water;
 - 1354 (iii) gas;
 - 1355 (iv) steam; or
 - 1356 (v) prewritten computer software, regardless of the manner in which the prewritten
 - 1357 computer software is transferred.
- 1358 (c) "Tangible personal property" includes the following regardless of whether the item
- 1359 is attached to real property:
 - 1360 (i) a dishwasher;

1361 (ii) a dryer;
1362 (iii) a freezer;
1363 (iv) a microwave;
1364 (v) a refrigerator;
1365 (vi) a stove;
1366 (vii) a washer; or
1367 (viii) an item similar to Subsections [~~(125)~~] (126)(c)(i) through (vii) as determined by
1368 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1369 Rulemaking Act.

1370 (d) "Tangible personal property" does not include a product that is transferred
1371 electronically.

1372 (e) "Tangible personal property" does not include the following if attached to real
1373 property, regardless of whether the attachment to real property is only through a line that
1374 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
1375 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
1376 Rulemaking Act:

- 1377 (i) a hot water heater;
- 1378 (ii) a water filtration system; or
- 1379 (iii) a water softener system.

1380 [~~(126)~~] (127) (a) "Telecommunications enabling or facilitating equipment, machinery,
1381 or software" means an item listed in Subsection [~~(126)~~] (127)(b) if that item is purchased or
1382 leased primarily to enable or facilitate one or more of the following to function:

- 1383 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1384 (ii) telecommunications transmission equipment, machinery, or software.

1385 (b) The following apply to Subsection [~~(126)~~] (127)(a):

- 1386 (i) a pole;
- 1387 (ii) software;
- 1388 (iii) a supplementary power supply;
- 1389 (iv) temperature or environmental equipment or machinery;
- 1390 (v) test equipment;
- 1391 (vi) a tower; or

1392 (vii) equipment, machinery, or software that functions similarly to an item listed in
1393 Subsections [~~(126)~~] (127)(b)(i) through (vi) as determined by the commission by rule made in
1394 accordance with Subsection [~~(126)~~] (127)(c).

1395 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1396 commission may by rule define what constitutes equipment, machinery, or software that
1397 functions similarly to an item listed in Subsections [~~(126)~~] (127)(b)(i) through (vi).

1398 [~~(127)~~] (128) "Telecommunications equipment, machinery, or software required for
1399 911 service" means equipment, machinery, or software that is required to comply with 47
1400 C.F.R. Sec. 20.18.

1401 [~~(128)~~] (129) "Telecommunications maintenance or repair equipment, machinery, or
1402 software" means equipment, machinery, or software purchased or leased primarily to maintain
1403 or repair one or more of the following, regardless of whether the equipment, machinery, or
1404 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1405 of the following:

1406 (a) telecommunications enabling or facilitating equipment, machinery, or software;

1407 (b) telecommunications switching or routing equipment, machinery, or software; or

1408 (c) telecommunications transmission equipment, machinery, or software.

1409 [~~(129)~~] (130) (a) "Telecommunications service" means the electronic conveyance,
1410 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1411 point, or among or between points.

1412 (b) "Telecommunications service" includes:

1413 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1414 processing application is used to act:

1415 (A) on the code, form, or protocol of the content;

1416 (B) for the purpose of electronic conveyance, routing, or transmission; and

1417 (C) regardless of whether the service:

1418 (I) is referred to as voice over Internet protocol service; or

1419 (II) is classified by the Federal Communications Commission as enhanced or value
1420 added;

1421 (ii) an 800 service;

1422 (iii) a 900 service;

- 1423 (iv) a fixed wireless service;
- 1424 (v) a mobile wireless service;
- 1425 (vi) a postpaid calling service;
- 1426 (vii) a prepaid calling service;
- 1427 (viii) a prepaid wireless calling service; or
- 1428 (ix) a private communications service.
- 1429 (c) "Telecommunications service" does not include:
- 1430 (i) advertising, including directory advertising;
- 1431 (ii) an ancillary service;
- 1432 (iii) a billing and collection service provided to a third party;
- 1433 (iv) a data processing and information service if:
- 1434 (A) the data processing and information service allows data to be:
- 1435 (I) (Aa) acquired;
- 1436 (Bb) generated;
- 1437 (Cc) processed;
- 1438 (Dd) retrieved; or
- 1439 (Ee) stored; and
- 1440 (II) delivered by an electronic transmission to a purchaser; and
- 1441 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1442 or information;
- 1443 (v) installation or maintenance of the following on a customer's premises:
- 1444 (A) equipment; or
- 1445 (B) wiring;
- 1446 (vi) Internet access service;
- 1447 (vii) a paging service;
- 1448 (viii) a product transferred electronically, including:
- 1449 (A) music;
- 1450 (B) reading material;
- 1451 (C) a ring tone;
- 1452 (D) software; or
- 1453 (E) video;

- 1454 (ix) a radio and television audio and video programming service:
- 1455 (A) regardless of the medium; and
- 1456 (B) including:
 - 1457 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 1458 programming service by a programming service provider;
 - 1459 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 1460 (III) audio and video programming services delivered by a commercial mobile radio
 - 1461 service provider as defined in 47 C.F.R. Sec. 20.3;
 - 1462 (x) a value-added nonvoice data service; or
 - 1463 (xi) tangible personal property.
- 1464 [~~(130)~~] (131) (a) "Telecommunications service provider" means a person that:
 - 1465 (i) owns, controls, operates, or manages a telecommunications service; and
 - 1466 (ii) engages in an activity described in Subsection [~~(130)~~] (131)(a)(i) for the shared use
 - 1467 with or resale to any person of the telecommunications service.
- 1468 (b) A person described in Subsection [~~(130)~~] (131)(a) is a telecommunications service
- 1469 provider whether or not the Public Service Commission of Utah regulates:
 - 1470 (i) that person; or
 - 1471 (ii) the telecommunications service that the person owns, controls, operates, or
 - 1472 manages.
- 1473 [~~(131)~~] (132) (a) "Telecommunications switching or routing equipment, machinery, or
- 1474 software" means an item listed in Subsection [~~(131)~~] (132)(b) if that item is purchased or
- 1475 leased primarily for switching or routing:
 - 1476 (i) an ancillary service;
 - 1477 (ii) data communications;
 - 1478 (iii) voice communications; or
 - 1479 (iv) telecommunications service.
- 1480 (b) The following apply to Subsection [~~(131)~~] (132)(a):
 - 1481 (i) a bridge;
 - 1482 (ii) a computer;
 - 1483 (iii) a cross connect;
 - 1484 (iv) a modem;

- 1485 (v) a multiplexer;
- 1486 (vi) plug in circuitry;
- 1487 (vii) a router;
- 1488 (viii) software;
- 1489 (ix) a switch; or
- 1490 (x) equipment, machinery, or software that functions similarly to an item listed in
- 1491 Subsections [~~(131)~~] (132)(b)(i) through (ix) as determined by the commission by rule made in
- 1492 accordance with Subsection [~~(131)~~] (132)(c).

1493 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1494 commission may by rule define what constitutes equipment, machinery, or software that

1495 functions similarly to an item listed in Subsections [~~(131)~~] (132)(b)(i) through (ix).

1496 [~~(132)~~] (133) (a) "Telecommunications transmission equipment, machinery, or

1497 software" means an item listed in Subsection [~~(132)~~] (133)(b) if that item is purchased or

1498 leased primarily for sending, receiving, or transporting:

- 1499 (i) an ancillary service;
- 1500 (ii) data communications;
- 1501 (iii) voice communications; or
- 1502 (iv) telecommunications service.

1503 (b) The following apply to Subsection [~~(132)~~] (133)(a):

- 1504 (i) an amplifier;
- 1505 (ii) a cable;
- 1506 (iii) a closure;
- 1507 (iv) a conduit;
- 1508 (v) a controller;
- 1509 (vi) a duplexer;
- 1510 (vii) a filter;
- 1511 (viii) an input device;
- 1512 (ix) an input/output device;
- 1513 (x) an insulator;
- 1514 (xi) microwave machinery or equipment;
- 1515 (xii) an oscillator;

- 1516 (xiii) an output device;
- 1517 (xiv) a pedestal;
- 1518 (xv) a power converter;
- 1519 (xvi) a power supply;
- 1520 (xvii) a radio channel;
- 1521 (xviii) a radio receiver;
- 1522 (xix) a radio transmitter;
- 1523 (xx) a repeater;
- 1524 (xxi) software;
- 1525 (xxii) a terminal;
- 1526 (xxiii) a timing unit;
- 1527 (xxiv) a transformer;
- 1528 (xxv) a wire; or
- 1529 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1530 Subsections [~~(132)~~] (133)(b)(i) through (xxv) as determined by the commission by rule made in
- 1531 accordance with Subsection [~~(132)~~] (133)(c).

1532 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1533 commission may by rule define what constitutes equipment, machinery, or software that

1534 functions similarly to an item listed in Subsections [~~(132)~~] (133)(b)(i) through (xxv).

1535 [~~(133)~~] (134) (a) "Textbook for a higher education course" means a textbook or other

1536 printed material that is required for a course:

- 1537 (i) offered by an institution of higher education; and
- 1538 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1539 (b) "Textbook for a higher education course" includes a textbook in electronic format.

1540 [~~(134)~~] (135) "Tobacco" means:

- 1541 (a) a cigarette;
- 1542 (b) a cigar;
- 1543 (c) chewing tobacco;
- 1544 (d) pipe tobacco; or
- 1545 (e) any other item that contains tobacco.

1546 [~~(135)~~] (136) "Unassisted amusement device" means an amusement device, skill

1547 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1548 operate the amusement device, skill device, or ride device.

1549 ~~[(136)]~~ (137) (a) "Use" means the exercise of any right or power over tangible personal
1550 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1551 incident to the ownership or the leasing of that tangible personal property, product transferred
1552 electronically, or service.

1553 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1554 property, a product transferred electronically, or a service in the regular course of business and
1555 held for resale.

1556 ~~[(137)]~~ (138) "Value-added nonvoice data service" means a service:

1557 (a) that otherwise meets the definition of a telecommunications service except that a
1558 computer processing application is used to act primarily for a purpose other than conveyance,
1559 routing, or transmission; and

1560 (b) with respect to which a computer processing application is used to act on data or
1561 information:

- 1562 (i) code;
- 1563 (ii) content;
- 1564 (iii) form; or
- 1565 (iv) protocol.

1566 ~~[(138)]~~ (139) (a) Subject to Subsection ~~[(138)]~~ (139)(b), "vehicle" means the following
1567 that are required to be titled, registered, or titled and registered:

- 1568 (i) an aircraft as defined in Section 72-10-102;
- 1569 (ii) a vehicle as defined in Section 41-1a-102;
- 1570 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1571 (iv) a vessel as defined in Section 41-1a-102.

1572 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1573 (i) a vehicle described in Subsection ~~[(138)]~~ (139)(a); or
- 1574 (ii) (A) a locomotive;
- 1575 (B) a freight car;
- 1576 (C) railroad work equipment; or
- 1577 (D) other railroad rolling stock.

1578 [~~(139)~~] (140) "Vehicle dealer" means a person engaged in the business of buying,
1579 selling, or exchanging a vehicle as defined in Subsection [~~(138)~~] (139).

1580 [~~(140)~~] (141) (a) "Vertical service" means an ancillary service that:

1581 (i) is offered in connection with one or more telecommunications services; and

1582 (ii) offers an advanced calling feature that allows a customer to:

1583 (A) identify a caller; and

1584 (B) manage multiple calls and call connections.

1585 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
1586 conference bridging service.

1587 [~~(141)~~] (142) (a) "Voice mail service" means an ancillary service that enables a
1588 customer to receive, send, or store a recorded message.

1589 (b) "Voice mail service" does not include a vertical service that a customer is required
1590 to have in order to utilize a voice mail service.

1591 [~~(142)~~] (143) (a) Except as provided in Subsection [~~(142)~~] (143)(b), "waste energy
1592 facility" means a facility that generates electricity:

1593 (i) using as the primary source of energy waste materials that would be placed in a
1594 landfill or refuse pit if it were not used to generate electricity, including:

1595 (A) tires;

1596 (B) waste coal;

1597 (C) oil shale; or

1598 (D) municipal solid waste; and

1599 (ii) in amounts greater than actually required for the operation of the facility.

1600 (b) "Waste energy facility" does not include a facility that incinerates:

1601 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1602 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1603 [~~(143)~~] (144) "Watercraft" means a vessel as defined in Section [73-18-2](#).

1604 [~~(144)~~] (145) "Wind energy" means wind used as the sole source of energy to produce
1605 electricity.

1606 [~~(145)~~] (146) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
1607 geographic location by the United States Postal Service.

1608 Section 2. Section **59-12-104** is amended to read:

1609 **59-12-104. Exemptions.**

1610 Exemptions from the taxes imposed by this chapter are as follows:

1611 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1612 under Chapter 13, Motor and Special Fuel Tax Act;1613 (2) subject to Section [59-12-104.6](#), sales to the state, its institutions, and its political
1614 subdivisions; however, this exemption does not apply to sales of:

1615 (a) construction materials except:

1616 (i) construction materials purchased by or on behalf of institutions of the public
1617 education system as defined in Utah Constitution, Article X, Section 2, provided the
1618 construction materials are clearly identified and segregated and installed or converted to real
1619 property which is owned by institutions of the public education system; and1620 (ii) construction materials purchased by the state, its institutions, or its political
1621 subdivisions which are installed or converted to real property by employees of the state, its
1622 institutions, or its political subdivisions; or1623 (b) tangible personal property in connection with the construction, operation,
1624 maintenance, repair, or replacement of a project, as defined in Section [11-13-103](#), or facilities
1625 providing additional project capacity, as defined in Section [11-13-103](#);

1626 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

1627 (i) the proceeds of each sale do not exceed \$1; and

1628 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
1629 the cost of the item described in Subsection (3)(b) as goods consumed; and

1630 (b) Subsection (3)(a) applies to:

1631 (i) food and food ingredients; or

1632 (ii) prepared food;

1633 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

1634 (i) alcoholic beverages;

1635 (ii) food and food ingredients; or

1636 (iii) prepared food;

1637 (b) sales of tangible personal property or a product transferred electronically:

1638 (i) to a passenger;

1639 (ii) by a commercial airline carrier; and

- 1640 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
1641 (c) services related to Subsection (4)(a) or (b);
1642 [~~(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~
1643 ~~and equipment;~~]
1644 [~~(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002~~
1645 ~~North American Industry Classification System of the federal Executive Office of the~~
1646 ~~President, Office of Management and Budget; and]~~
1647 [~~(H) for;~~]
1648 [~~(Aa) installation in an aircraft, including services relating to the installation of parts or~~
1649 ~~equipment in the aircraft;]~~
1650 [~~(Bb) renovation of an aircraft; or]~~
1651 [~~(Cc) repair of an aircraft; or]~~
1652 [~~(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
1653 ~~commerce; or]~~
1654 [~~(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an~~
1655 ~~aircraft operated by a common carrier in interstate or foreign commerce; and]~~
1656 [~~(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
1657 ~~a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a~~
1658 ~~refund;~~]
1659 [~~(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;]~~
1660 [~~(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;]~~
1661 [~~(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~
1662 ~~the sale prior to filing for the refund;]~~
1663 [~~(iv) for sales and use taxes paid under this chapter on the sale;]~~
1664 [~~(v) in accordance with Section 59-1-1410; and]~~
1665 [~~(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410,~~
1666 ~~if the person files for the refund on or before September 30, 2011;]~~
1667 (5) sales of parts and equipment for installation in an aircraft operated by a common
1668 carrier in interstate or foreign commerce;
1669 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
1670 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture

1671 exhibitor, distributor, or commercial television or radio broadcaster;

1672 (7) (a) except as provided in Subsection [~~(88)~~] (85) and subject to Subsection (7)(b),
1673 sales of cleaning or washing of tangible personal property if the cleaning or washing of the
1674 tangible personal property is not assisted cleaning or washing of tangible personal property;

1675 (b) if a seller that sells at the same business location assisted cleaning or washing of
1676 tangible personal property and cleaning or washing of tangible personal property that is not
1677 assisted cleaning or washing of tangible personal property, the exemption described in
1678 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
1679 or washing of the tangible personal property; and

1680 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
1681 Utah Administrative Rulemaking Act, the commission may make rules:

1682 (i) governing the circumstances under which sales are at the same business location;
1683 and

1684 (ii) establishing the procedures and requirements for a seller to separately account for
1685 sales of assisted cleaning or washing of tangible personal property;

1686 (8) sales made to or by religious or charitable institutions in the conduct of their regular
1687 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are
1688 fulfilled;

1689 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
1690 this state if the vehicle is:

1691 (a) not registered in this state; and

1692 (b) (i) not used in this state; or

1693 (ii) used in this state:

1694 (A) if the vehicle is not used to conduct business, for a time period that does not
1695 exceed the longer of:

1696 (I) 30 days in any calendar year; or

1697 (II) the time period necessary to transport the vehicle to the borders of this state; or

1698 (B) if the vehicle is used to conduct business, for the time period necessary to transport
1699 the vehicle to the borders of this state;

1700 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

1701 (i) the item is intended for human use; and

1702 (ii) (A) a prescription was issued for the item; or
1703 (B) the item was purchased by a hospital or other medical facility; and
1704 (b) (i) Subsection (10)(a) applies to:
1705 (A) a drug;
1706 (B) a syringe; or
1707 (C) a stoma supply; and
1708 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1709 commission may by rule define the terms:
1710 (A) "syringe"; or
1711 (B) "stoma supply";
1712 (11) purchases or leases exempt under Section [19-12-201](#);
1713 (12) (a) sales of an item described in Subsection (12)(c) served by:
1714 (i) the following if the item described in Subsection (12)(c) is not available to the
1715 general public:
1716 (A) a church; or
1717 (B) a charitable institution; or
1718 (ii) an institution of higher education if:
1719 (A) the item described in Subsection (12)(c) is not available to the general public; or
1720 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
1721 offered by the institution of higher education; or
1722 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
1723 (i) a medical facility; or
1724 (ii) a nursing facility; and
1725 (c) Subsections (12)(a) and (b) apply to:
1726 (i) food and food ingredients;
1727 (ii) prepared food; or
1728 (iii) alcoholic beverages;
1729 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
1730 or a product transferred electronically by a person:
1731 (i) regardless of the number of transactions involving the sale of that tangible personal
1732 property or product transferred electronically by that person; and

- 1733 (ii) not regularly engaged in the business of selling that type of tangible personal
1734 property or product transferred electronically;
- 1735 (b) this Subsection (13) does not apply if:
- 1736 (i) the sale is one of a series of sales of a character to indicate that the person is
1737 regularly engaged in the business of selling that type of tangible personal property or product
1738 transferred electronically;
- 1739 (ii) the person holds that person out as regularly engaged in the business of selling that
1740 type of tangible personal property or product transferred electronically;
- 1741 (iii) the person sells an item of tangible personal property or product transferred
1742 electronically that the person purchased as a sale that is exempt under Subsection (25); or
- 1743 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
1744 this state in which case the tax is based upon:
- 1745 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
1746 sold; or
- 1747 (B) in the absence of a bill of sale or other written evidence of value, the fair market
1748 value of the vehicle or vessel being sold at the time of the sale as determined by the
1749 commission; and
- 1750 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1751 commission shall make rules establishing the circumstances under which:
- 1752 (i) a person is regularly engaged in the business of selling a type of tangible personal
1753 property or product transferred electronically;
- 1754 (ii) a sale of tangible personal property or a product transferred electronically is one of
1755 a series of sales of a character to indicate that a person is regularly engaged in the business of
1756 selling that type of tangible personal property or product transferred electronically; or
- 1757 (iii) a person holds that person out as regularly engaged in the business of selling a type
1758 of tangible personal property or product transferred electronically;
- 1759 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
1760 operating repair or replacement parts, or materials, except for office equipment or office
1761 supplies, by:
- 1762 (a) a manufacturing facility that:
- 1763 (i) is located in the state; and

1764 (ii) uses or consumes the machinery, equipment, normal operating repair or
1765 replacement parts, or materials:

1766 (A) in the manufacturing process to manufacture an item sold as tangible personal
1767 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
1768 Utah Administrative Rulemaking Act; or

1769 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
1770 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
1771 Administrative Rulemaking Act;

1772 (b) an establishment, as the commission defines that term in accordance with Title
1773 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1774 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
1775 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
1776 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
1777 2002 North American Industry Classification System of the federal Executive Office of the
1778 President, Office of Management and Budget;

1779 (ii) is located in the state; and

1780 (iii) uses or consumes the machinery, equipment, normal operating repair or
1781 replacement parts, or materials in:

1782 (A) the production process to produce an item sold as tangible personal property, as the
1783 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
1784 Administrative Rulemaking Act;

1785 (B) research and development, as the commission may define that phrase in accordance
1786 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

1787 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
1788 produced from mining;

1789 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
1790 mining; or

1791 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

1792 (c) an establishment, as the commission defines that term in accordance with Title 63G,
1793 Chapter 3, Utah Administrative Rulemaking Act, that:

1794 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North

1795 American Industry Classification System of the federal Executive Office of the President,
1796 Office of Management and Budget;
1797 (ii) is located in the state; and
1798 (iii) uses or consumes the machinery, equipment, normal operating repair or
1799 replacement parts, or materials in the operation of the web search portal;
1800 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
1801 (i) tooling;
1802 (ii) special tooling;
1803 (iii) support equipment;
1804 (iv) special test equipment; or
1805 (v) parts used in the repairs or renovations of tooling or equipment described in
1806 Subsections (15)(a)(i) through (iv); and
1807 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
1808 (i) the tooling, equipment, or parts are used or consumed exclusively in the
1809 performance of any aerospace or electronics industry contract with the United States
1810 government or any subcontract under that contract; and
1811 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
1812 title to the tooling, equipment, or parts is vested in the United States government as evidenced
1813 by:
1814 (A) a government identification tag placed on the tooling, equipment, or parts; or
1815 (B) listing on a government-approved property record if placing a government
1816 identification tag on the tooling, equipment, or parts is impractical;
1817 (16) sales of newspapers or newspaper subscriptions;
1818 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
1819 product transferred electronically traded in as full or part payment of the purchase price, except
1820 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
1821 trade-ins are limited to other vehicles only, and the tax is based upon:
1822 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
1823 vehicle being traded in; or
1824 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
1825 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

1826 commission; and
1827 (b) Subsection (17)(a) does not apply to the following items of tangible personal
1828 property or products transferred electronically traded in as full or part payment of the purchase
1829 price:

- 1830 (i) money;
- 1831 (ii) electricity;
- 1832 (iii) water;
- 1833 (iv) gas; or
- 1834 (v) steam;

1835 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
1836 or a product transferred electronically used or consumed primarily and directly in farming
1837 operations, regardless of whether the tangible personal property or product transferred
1838 electronically:

1839 (A) becomes part of real estate; or

1840 (B) is installed by a:

- 1841 (I) farmer;
- 1842 (II) contractor; or
- 1843 (III) subcontractor; or

1844 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
1845 product transferred electronically if the tangible personal property or product transferred
1846 electronically is exempt under Subsection (18)(a)(i); and

1847 (b) amounts paid or charged for the following are subject to the taxes imposed by this
1848 chapter:

1849 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
1850 supplies if used in a manner that is incidental to farming; and

1851 (B) tangible personal property that is considered to be used in a manner that is
1852 incidental to farming includes:

- 1853 (I) hand tools; or
- 1854 (II) maintenance and janitorial equipment and supplies;

1855 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
1856 transferred electronically if the tangible personal property or product transferred electronically

1857 is used in an activity other than farming; and
1858 (B) tangible personal property or a product transferred electronically that is considered
1859 to be used in an activity other than farming includes:
1860 (I) office equipment and supplies; or
1861 (II) equipment and supplies used in:
1862 (Aa) the sale or distribution of farm products;
1863 (Bb) research; or
1864 (Cc) transportation; or
1865 (iii) a vehicle required to be registered by the laws of this state during the period
1866 ending two years after the date of the vehicle's purchase;
1867 (19) sales of hay;
1868 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
1869 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
1870 garden, farm, or other agricultural produce is sold by:
1871 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
1872 agricultural produce;
1873 (b) an employee of the producer described in Subsection (20)(a); or
1874 (c) a member of the immediate family of the producer described in Subsection (20)(a);
1875 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
1876 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
1877 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
1878 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1879 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1880 manufacturer, processor, wholesaler, or retailer;
1881 (23) a product stored in the state for resale;
1882 (24) (a) purchases of a product if:
1883 (i) the product is:
1884 (A) purchased outside of this state;
1885 (B) brought into this state:
1886 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
1887 (II) by a nonresident person who is not living or working in this state at the time of the

1888 purchase;

1889 (C) used for the personal use or enjoyment of the nonresident person described in

1890 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

1891 (D) not used in conducting business in this state; and

1892 (ii) for:

1893 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

1894 the product for a purpose for which the product is designed occurs outside of this state;

1895 (B) a boat, the boat is registered outside of this state; or

1896 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

1897 outside of this state;

1898 (b) the exemption provided for in Subsection (24)(a) does not apply to:

1899 (i) a lease or rental of a product; or

1900 (ii) a sale of a vehicle exempt under Subsection (33); and

1901 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

1902 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

1903 following:

1904 (i) conducting business in this state if that phrase has the same meaning in this

1905 Subsection (24) as in Subsection (63);

1906 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)

1907 as in Subsection (63); or

1908 (iii) a purpose for which a product is designed if that phrase has the same meaning in

1909 this Subsection (24) as in Subsection (63);

1910 (25) a product purchased for resale in the regular course of business, either in its

1911 original form or as an ingredient or component part of a manufactured or compounded product;

1912 (26) a product upon which a sales or use tax was paid to some other state, or one of its

1913 subdivisions, except that the state shall be paid any difference between the tax paid and the tax

1914 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if

1915 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax

1916 Act;

1917 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a

1918 person for use in compounding a service taxable under the subsections;

- 1919 (28) purchases made in accordance with the special supplemental nutrition program for
1920 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 1921 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
1922 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
1923 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
1924 the President, Office of Management and Budget;
- 1925 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
1926 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
1927 (a) not registered in this state; and
1928 (b) (i) not used in this state; or
1929 (ii) used in this state:
1930 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
1931 time period that does not exceed the longer of:
1932 (I) 30 days in any calendar year; or
1933 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
1934 the borders of this state; or
1935 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
1936 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
1937 state;
- 1938 (31) sales of aircraft manufactured in Utah;
- 1939 (32) amounts paid for the purchase of telecommunications service for purposes of
1940 providing telecommunications service;
- 1941 (33) sales, leases, or uses of the following:
1942 (a) a vehicle by an authorized carrier; or
1943 (b) tangible personal property that is installed on a vehicle:
1944 (i) sold or leased to or used by an authorized carrier; and
1945 (ii) before the vehicle is placed in service for the first time;
- 1946 (34) (a) 45% of the sales price of any new manufactured home; and
1947 (b) 100% of the sales price of any used manufactured home;
- 1948 (35) sales relating to schools and fundraising sales;
- 1949 (36) sales or rentals of durable medical equipment if:

- 1950 (a) a person presents a prescription for the durable medical equipment; and
- 1951 (b) the durable medical equipment is used for home use only;
- 1952 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 1953 Section [72-11-102](#); and
- 1954 (b) the commission shall by rule determine the method for calculating sales exempt
- 1955 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 1956 (38) sales to a ski resort of:
- 1957 (a) snowmaking equipment;
- 1958 (b) ski slope grooming equipment;
- 1959 (c) passenger ropeways as defined in Section [72-11-102](#); or
- 1960 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 1961 described in Subsections (38)(a) through (c);
- 1962 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 1963 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 1964 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 1965 [59-12-102](#);
- 1966 (b) if a seller that sells or rents at the same business location the right to use or operate
- 1967 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 1968 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 1969 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 1970 amusement, entertainment, or recreation for the assisted amusement devices; and
- 1971 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 1972 Utah Administrative Rulemaking Act, the commission may make rules:
- 1973 (i) governing the circumstances under which sales are at the same business location;
- 1974 and
- 1975 (ii) establishing the procedures and requirements for a seller to separately account for
- 1976 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 1977 assisted amusement devices;
- 1978 (41) (a) sales of photocopies by:
- 1979 (i) a governmental entity; or
- 1980 (ii) an entity within the state system of public education, including:

- 1981 (A) a school; or
- 1982 (B) the State Board of Education; or
- 1983 (b) sales of publications by a governmental entity;
- 1984 (42) amounts paid for admission to an athletic event at an institution of higher
- 1985 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 1986 20 U.S.C. Sec. 1681 et seq.;
- 1987 (43) (a) sales made to or by:
- 1988 (i) an area agency on aging; or
- 1989 (ii) a senior citizen center owned by a county, city, or town; or
- 1990 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 1991 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 1992 materials regardless of whether the semiconductor fabricating, processing, research, or
- 1993 development materials:
- 1994 (a) actually come into contact with a semiconductor; or
- 1995 (b) ultimately become incorporated into real property;
- 1996 (45) an amount paid by or charged to a purchaser for accommodations and services
- 1997 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section
- 1998 [59-12-104.2](#);
- 1999 (46) [~~beginning on September 1, 2001,~~] the lease or use of a vehicle issued a temporary
- 2000 sports event registration certificate in accordance with Section [41-3-306](#) for the event period
- 2001 specified on the temporary sports event registration certificate;
- 2002 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 2003 adopted by the Public Service Commission only for purchase of electricity produced from a
- 2004 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 2005 Public Service Commission; and
- 2006 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 2007 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
- 2008 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
- 2009 customer would have paid absent the tariff;
- 2010 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 2011 prescription for the mobility enhancing equipment;

- 2012 (49) sales of water in a:
- 2013 (a) pipe;
- 2014 (b) conduit;
- 2015 (c) ditch; or
- 2016 (d) reservoir;
- 2017 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 2018 or a foreign nation;
- 2019 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 2020 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 2021 (ii) has a gold, silver, or platinum content of 50% or more; and
- 2022 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 2023 (i) ingot;
- 2024 (ii) bar;
- 2025 (iii) medallion; or
- 2026 (iv) decorative coin;
- 2027 (52) amounts paid on a sale-leaseback transaction;
- 2028 (53) sales of a prosthetic device:
- 2029 (a) for use on or in a human; and
- 2030 (b) (i) for which a prescription is required; or
- 2031 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 2032 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 2033 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 2034 or equipment is primarily used in the production or postproduction of the following media for
- 2035 commercial distribution:
- 2036 (i) a motion picture;
- 2037 (ii) a television program;
- 2038 (iii) a movie made for television;
- 2039 (iv) a music video;
- 2040 (v) a commercial;
- 2041 (vi) a documentary; or
- 2042 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the

2043 commission by administrative rule made in accordance with Subsection (54)(d); or
 2044 (b) purchases, leases, or rentals of machinery or equipment by an establishment
 2045 described in Subsection (54)(c) that is used for the production or postproduction of the
 2046 following are subject to the taxes imposed by this chapter:

- 2047 (i) a live musical performance;
- 2048 (ii) a live news program; or
- 2049 (iii) a live sporting event;

2050 (c) the following establishments listed in the 1997 North American Industry
 2051 Classification System of the federal Executive Office of the President, Office of Management
 2052 and Budget, apply to Subsections (54)(a) and (b):

- 2053 (i) NAICS Code 512110; or
- 2054 (ii) NAICS Code 51219; and

2055 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 2056 commission may by rule:

- 2057 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

2058 or

- 2059 (ii) define:
 - 2060 (A) "commercial distribution";
 - 2061 (B) "live musical performance";
 - 2062 (C) "live news program"; or
 - 2063 (D) "live sporting event";

2064 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
 2065 on or before June 30, 2027, of tangible personal property that:

- 2066 (i) is leased or purchased for or by a facility that:
 - 2067 (A) is an alternative energy electricity production facility;
 - 2068 (B) is located in the state; and
 - 2069 (C) (I) becomes operational on or after July 1, 2004; or
 - 2070 (II) has its generation capacity increased by one or more megawatts on or after July 1,
 - 2071 2004, as a result of the use of the tangible personal property;
- 2072 (ii) has an economic life of five or more years; and
- 2073 (iii) is used to make the facility or the increase in capacity of the facility described in

2074 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
2075 transmission grid including:

- 2076 (A) a wind turbine;
- 2077 (B) generating equipment;
- 2078 (C) a control and monitoring system;
- 2079 (D) a power line;
- 2080 (E) substation equipment;
- 2081 (F) lighting;
- 2082 (G) fencing;
- 2083 (H) pipes; or
- 2084 (I) other equipment used for locating a power line or pole; and

2085 (b) this Subsection (55) does not apply to:

- 2086 (i) tangible personal property used in construction of:
 - 2087 (A) a new alternative energy electricity production facility; or
 - 2088 (B) the increase in the capacity of an alternative energy electricity production facility;
- 2089 (ii) contracted services required for construction and routine maintenance activities;

2090 and

- 2091 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2092 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
2093 acquired after:
 - 2094 (A) the alternative energy electricity production facility described in Subsection
2095 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
 - 2096 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
2097 in Subsection (55)(a)(iii);

2098 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
2099 on or before June 30, 2027, of tangible personal property that:

- 2100 (i) is leased or purchased for or by a facility that:
 - 2101 (A) is a waste energy production facility;
 - 2102 (B) is located in the state; and
 - 2103 (C) (I) becomes operational on or after July 1, 2004; or
 - 2104 (II) has its generation capacity increased by one or more megawatts on or after July 1,

2105 2004, as a result of the use of the tangible personal property;

2106 (ii) has an economic life of five or more years; and

2107 (iii) is used to make the facility or the increase in capacity of the facility described in

2108 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

2109 transmission grid including:

2110 (A) generating equipment;

2111 (B) a control and monitoring system;

2112 (C) a power line;

2113 (D) substation equipment;

2114 (E) lighting;

2115 (F) fencing;

2116 (G) pipes; or

2117 (H) other equipment used for locating a power line or pole; and

2118 (b) this Subsection (56) does not apply to:

2119 (i) tangible personal property used in construction of:

2120 (A) a new waste energy facility; or

2121 (B) the increase in the capacity of a waste energy facility;

2122 (ii) contracted services required for construction and routine maintenance activities;

2123 and

2124 (iii) unless the tangible personal property is used or acquired for an increase in capacity

2125 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

2126 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as

2127 described in Subsection (56)(a)(iii); or

2128 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described

2129 in Subsection (56)(a)(iii);

2130 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on

2131 or before June 30, 2027, of tangible personal property that:

2132 (i) is leased or purchased for or by a facility that:

2133 (A) is located in the state;

2134 (B) produces fuel from alternative energy, including:

2135 (I) methanol; or

2136 (II) ethanol; and
2137 (C) (I) becomes operational on or after July 1, 2004; or
2138 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
2139 a result of the installation of the tangible personal property;
2140 (ii) has an economic life of five or more years; and
2141 (iii) is installed on the facility described in Subsection (57)(a)(i);
2142 (b) this Subsection (57) does not apply to:
2143 (i) tangible personal property used in construction of:
2144 (A) a new facility described in Subsection (57)(a)(i); or
2145 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
2146 (ii) contracted services required for construction and routine maintenance activities;
2147 and
2148 (iii) unless the tangible personal property is used or acquired for an increase in capacity
2149 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
2150 (A) the facility described in Subsection (57)(a)(i) is operational; or
2151 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
2152 (58) (a) subject to Subsection (58)(b) [~~or (c)~~], sales of tangible personal property or a
2153 product transferred electronically to a person within this state if that tangible personal property
2154 or product transferred electronically is subsequently shipped outside the state and incorporated
2155 pursuant to contract into and becomes a part of real property located outside of this state; and
2156 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
2157 state or political entity to which the tangible personal property is shipped imposes a sales, use,
2158 gross receipts, or other similar transaction excise tax on the transaction against which the other
2159 state or political entity allows a credit for sales and use taxes imposed by this chapter; [~~and~~
2160 [~~(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
2161 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~
2162 ~~refund;~~]
2163 [(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]
2164 [(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
2165 which the sale is made;]
2166 [(iii) if the person did not claim the exemption allowed by this Subsection (58) for the

2167 ~~sale prior to filing for the refund;]~~
2168 ~~[(iv) for sales and use taxes paid under this chapter on the sale;]~~
2169 ~~[(v) in accordance with Section 59-1-1410; and]~~
2170 ~~[(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410;~~
2171 ~~if the person files for the refund on or before June 30, 2011;]~~
2172 (59) purchases:
2173 (a) of one or more of the following items in printed or electronic format:
2174 (i) a list containing information that includes one or more:
2175 (A) names; or
2176 (B) addresses; or
2177 (ii) a database containing information that includes one or more:
2178 (A) names; or
2179 (B) addresses; and
2180 (b) used to send direct mail;
2181 (60) redemptions or repurchases of a product by a person if that product was:
2182 (a) delivered to a pawnbroker as part of a pawn transaction; and
2183 (b) redeemed or repurchased within the time period established in a written agreement
2184 between the person and the pawnbroker for redeeming or repurchasing the product;
2185 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
2186 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
2187 and
2188 (ii) has a useful economic life of one or more years; and
2189 (b) the following apply to Subsection (61)(a):
2190 (i) telecommunications enabling or facilitating equipment, machinery, or software;
2191 (ii) telecommunications equipment, machinery, or software required for 911 service;
2192 (iii) telecommunications maintenance or repair equipment, machinery, or software;
2193 (iv) telecommunications switching or routing equipment, machinery, or software; or
2194 (v) telecommunications transmission equipment, machinery, or software;
2195 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
2196 personal property or a product transferred electronically that are used in the research and
2197 development of alternative energy technology; and

2198 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2199 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
2200 purchases of tangible personal property or a product transferred electronically that are used in
2201 the research and development of alternative energy technology;

2202 (63) (a) purchases of tangible personal property or a product transferred electronically
2203 if:

2204 (i) the tangible personal property or product transferred electronically is:

2205 (A) purchased outside of this state;

2206 (B) brought into this state at any time after the purchase described in Subsection
2207 (63)(a)(i)(A); and

2208 (C) used in conducting business in this state; and

2209 (ii) for:

2210 (A) tangible personal property or a product transferred electronically other than the
2211 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
2212 for a purpose for which the property is designed occurs outside of this state; or

2213 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
2214 outside of this state;

2215 (b) the exemption provided for in Subsection (63)(a) does not apply to:

2216 (i) a lease or rental of tangible personal property or a product transferred electronically;
2217 or

2218 (ii) a sale of a vehicle exempt under Subsection (33); and

2219 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
2220 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
2221 following:

2222 (i) conducting business in this state if that phrase has the same meaning in this
2223 Subsection (63) as in Subsection (24);

2224 (ii) the first use of tangible personal property or a product transferred electronically if
2225 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

2226 (iii) a purpose for which tangible personal property or a product transferred
2227 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
2228 Subsection (24);

- 2229 (64) sales of disposable home medical equipment or supplies if:
- 2230 (a) a person presents a prescription for the disposable home medical equipment or
- 2231 supplies;
- 2232 (b) the disposable home medical equipment or supplies are used exclusively by the
- 2233 person to whom the prescription described in Subsection (64)(a) is issued; and
- 2234 (c) the disposable home medical equipment and supplies are listed as eligible for
- 2235 payment under:
- 2236 (i) Title XVIII, federal Social Security Act; or
- 2237 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 2238 (65) sales:
- 2239 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 2240 District Act; or
- 2241 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 2242 tangible personal property is:
- 2243 (i) clearly identified; and
- 2244 (ii) installed or converted to real property owned by the public transit district;
- 2245 (66) sales of construction materials:
- 2246 (a) purchased on or after July 1, 2010;
- 2247 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 2248 (i) located within a county of the first class; and
- 2249 (ii) that has a United States customs office on its premises; and
- 2250 (c) if the construction materials are:
- 2251 (i) clearly identified;
- 2252 (ii) segregated; and
- 2253 (iii) installed or converted to real property:
- 2254 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 2255 (B) located at the international airport described in Subsection (66)(b);
- 2256 (67) sales of construction materials:
- 2257 (a) purchased on or after July 1, 2008;
- 2258 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 2259 (i) located within a county of the second class; and

2260 (ii) that is owned or operated by a city in which an airline as defined in Section
2261 59-2-102 is headquartered; and

2262 (c) if the construction materials are:

2263 (i) clearly identified;

2264 (ii) segregated; and

2265 (iii) installed or converted to real property:

2266 (A) owned or operated by the new airport described in Subsection (67)(b);

2267 (B) located at the new airport described in Subsection (67)(b); and

2268 (C) as part of the construction of the new airport described in Subsection (67)(b);

2269 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

2270 (69) purchases and sales described in Section 63H-4-111;

2271 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
2272 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
2273 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
2274 lists a state or country other than this state as the location of registry of the fixed wing turbine
2275 powered aircraft; or

2276 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
2277 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
2278 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
2279 lists a state or country other than this state as the location of registry of the fixed wing turbine
2280 powered aircraft;

2281 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

2282 (a) to a person admitted to an institution of higher education; and

2283 (b) by a seller, other than a bookstore owned by an institution of higher education, if
2284 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
2285 textbook for a higher education course;

2286 (72) a license fee or tax a municipality imposes in accordance with Subsection
2287 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
2288 level of municipal services;

2289 (73) amounts paid or charged for construction materials used in the construction of a
2290 new or expanding life science research and development facility in the state, if the construction

- 2291 materials are:
- 2292 (a) clearly identified;
- 2293 (b) segregated; and
- 2294 (c) installed or converted to real property;
- 2295 (74) amounts paid or charged for:
- 2296 (a) a purchase or lease of machinery and equipment that:
- 2297 (i) are used in performing qualified research:
- 2298 (A) as defined in Section 41(d), Internal Revenue Code; and
- 2299 (B) in the state; and
- 2300 (ii) have an economic life of three or more years; and
- 2301 (b) normal operating repair or replacement parts:
- 2302 (i) for the machinery and equipment described in Subsection (74)(a); and
- 2303 (ii) that have an economic life of three or more years;
- 2304 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 2305 food if:
- 2306 (a) for a sale:
- 2307 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 2308 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 2309 tangible personal property prior to making the sale; or
- 2310 (b) for a lease:
- 2311 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 2312 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 2313 personal property prior to making the lease;
- 2314 (76) (a) purchases of machinery or equipment if:
- 2315 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 2316 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 2317 System of the federal Executive Office of the President, Office of Management and Budget;
- 2318 (ii) the machinery or equipment:
- 2319 (A) has an economic life of three or more years; and
- 2320 (B) is used by one or more persons who pay admission or user fees described in
- 2321 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

2322 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
2323 (A) amounts paid or charged as admission or user fees described in Subsection
2324 59-12-103(1)(f); and
2325 (B) subject to taxation under this chapter; and
2326 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2327 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
2328 previous calendar quarter is:
2329 (i) amounts paid or charged as admission or user fees described in Subsection
2330 59-12-103(1)(f); and
2331 (ii) subject to taxation under this chapter;
2332 (77) purchases of a short-term lodging consumable by a business that provides
2333 accommodations and services described in Subsection 59-12-103(1)(i);
2334 (78) amounts paid or charged to access a database:
2335 (a) if the primary purpose for accessing the database is to view or retrieve information
2336 from the database; and
2337 (b) not including amounts paid or charged for a:
2338 (i) digital audiowork;
2339 (ii) digital audio-visual work; or
2340 (iii) digital book;
2341 (79) amounts paid or charged for a purchase or lease made by an electronic financial
2342 payment service, of:
2343 (a) machinery and equipment that:
2344 (i) are used in the operation of the electronic financial payment service; and
2345 (ii) have an economic life of three or more years; and
2346 (b) normal operating repair or replacement parts that:
2347 (i) are used in the operation of the electronic financial payment service; and
2348 (ii) have an economic life of three or more years;
2349 (80) [~~beginning on April 1, 2013,~~] sales of a fuel cell as defined in Section 54-15-102;
2350 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
2351 product transferred electronically if the tangible personal property or product transferred
2352 electronically;

- 2353 (a) is stored, used, or consumed in the state; and
- 2354 (b) is temporarily brought into the state from another state:
- 2355 (i) during a disaster period as defined in Section 53-2a-1202;
- 2356 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 2357 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 2358 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 2359 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
- 2360 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 2361 Recreation Program;
- 2362 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 2363 (84) amounts paid or charged for a purchase or lease made by a qualifying enterprise
- 2364 data center of machinery, equipment, or normal operating repair or replacement parts, if the
- 2365 machinery, equipment, or normal operating repair or replacement parts:
- 2366 (a) are used in the operation of the establishment; and
- 2367 (b) have an economic life of one or more years;
- 2368 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
- 2369 vehicle that includes cleaning or washing of the interior of the vehicle;
- 2370 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 2371 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
- 2372 or consumed:
- 2373 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
- 2374 in Section 63M-4-701 located in the state;
- 2375 (b) if the machinery, equipment, normal operating repair or replacement parts,
- 2376 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
- 2377 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
- 2378 added to gasoline or diesel fuel;
- 2379 (ii) research and development;
- 2380 (iii) transporting, storing, or managing raw materials, work in process, finished
- 2381 products, and waste materials produced from refining gasoline or diesel fuel, or adding
- 2382 blendstock to gasoline or diesel fuel;
- 2383 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in

2384 refining; or
2385 (v) preventing, controlling, or reducing pollutants from refining; and
2386 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
2387 of Energy Development under Subsection 63M-4-702(2);
2388 (87) amounts paid to or charged by a proprietor for accommodations and services, as
2389 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax
2390 imposed under Section 63H-1-205; [~~and~~]
2391 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
2392 operating repair or replacement parts, or materials, except for office equipment or office
2393 supplies, by an establishment, as the commission defines that term in accordance with Title
2394 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
2395 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
2396 American Industry Classification System of the federal Executive Office of the President,
2397 Office of Management and Budget;
2398 (b) is located in this state; and
2399 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
2400 materials in the operation of the establishment[~~;~~]; and
2401 (89) amounts paid or charged for a purchase or lease of an electric energy storage asset
2402 for residential, commercial, or industrial use.
2403 Section 3. **Effective date.**
2404 This bill takes effect on July 1, 2019.